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*Changes to legislation: There are currently no known outstanding effects  
for the Finance (No. 2) Act 2015. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 1

Section 11

#### RATE OF TAX CHARGED UNDER CHAPTER 3 OF PART 3 IHTA 1984

1 IHTA 1984 is amended as follows.

2 After section 62 insert—

#### “62A Same-day additions

- (1) For the purposes of this Chapter, there is a “same-day addition”, in relation to a settlement (“settlement A”), if—
- (a) there is a transfer of value by a person as a result of which the value immediately afterwards of the property comprised in settlement A is greater than the value immediately before,
  - (b) as a result of the same transfer of value, or as a result of another transfer of value made by that person on the same day, the value immediately afterwards of the property comprised in another settlement (“settlement B”) is greater than the value immediately before,
  - (c) that person is the settlor of settlement A and settlement B,
  - (d) at any point in the relevant period, all or any part of the property comprised in settlement A was relevant property, and
  - (e) at that point, or at any other point in the relevant period, all or any part of the property comprised in settlement B was relevant property.

For exceptions, see section 62B.

- (2) Where there is a same-day addition, references in this Chapter to its value are to the difference between the two values mentioned in subsection (1)(b).
- (3) “The relevant period” means—
- (a) in the case of settlement A, the period beginning with the commencement of settlement A and ending immediately after the transfer of value mentioned in subsection (1)(a), and
  - (b) in the case of settlement B, the period beginning with the commencement of settlement B and ending immediately after the transfer of value mentioned in subsection (1)(b).
- (4) The transfer or transfers of value mentioned in subsection (1) include a transfer or transfers of value as a result of which property first becomes comprised in settlement A or settlement B; but not if settlements A and B are related settlements.
- (5) For the purposes of subsection (1) above, it is immaterial whether the amount of the property comprised in settlement A or settlement B (or neither) was

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increased as a result of the transfer or transfers of value mentioned in that subsection.

### **62B Same day additions: exceptions**

- (1) There is not a same-day addition for the purposes of this Chapter if any of the following conditions is met—
  - (a) immediately after the transfer of value mentioned in section 62A(1)
    - (a) all the property comprised in settlement A was held for charitable purposes only without limit of time (defined by a date or otherwise),
    - (b) immediately after the transfer of value mentioned in section 62A(1)
      - (b) all the property comprised in settlement B was so held,
    - (c) either or each of settlement A and settlement B is a protected settlement (see section 62C), and
    - (d) the transfer of value, or either or each of the transfers of value, mentioned in section 62A(1)(a) and (b)—
      - (i) results from the payment of a premium under a contract of life insurance the terms of which provide for premiums to be due at regular intervals of one year or less throughout the contract term, or
      - (ii) is made to fund such a payment.
- (2) If the transfer of value, or each of the transfers of value, mentioned in section 62A(1) is not the transfer of value under section 4 on the settlor's death, there is a same-day addition for the purposes of this Chapter only if conditions A and B are met.
- (3) Condition A is that—
  - (a) the difference between the two values mentioned in section 62A(1)
    - (a) exceeds £5,000, or
    - (b) in a case where there has been more than one transfer of value within section 62A(1)(a) on the same day, the difference between—
      - (i) the value of the property comprised in settlement A immediately before the first of those transfers, and
      - (ii) the value of the property comprised in settlement A immediately after the last of those transfers,
exceeds £5,000.
- (4) Condition B is that—
  - (a) the difference between the two values mentioned in section 62A(1)
    - (b) exceeds £5,000, or
    - (b) in a case where there has been more than one transfer of value within section 62A(1)(b), the difference between—
      - (i) the value of the property comprised in settlement B immediately before the first of those transfers, and
      - (ii) the value of the property comprised in settlement B immediately after the last of those transfers,
exceeds £5,000.

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## 62C Protected settlements

- (1) For the purposes of this Chapter, a settlement is a “protected settlement” if it commenced before 10 December 2014 and either condition A or condition B is met.
  - (2) Condition A is met if there have been no transfers of value by the settlor on or after 10 December 2014 as a result of which the value of the property comprised in the settlement was increased.
  - (3) Condition B is met if—
    - (a) there has been a transfer of value by the settlor on or after 10 December 2014 as a result of which the value of the property comprised in the settlement was increased, and
    - (b) that transfer of value was the transfer of value under section 4 on the settlor's death before 6 April 2017 and it had the result mentioned by reason of a protected testamentary disposition.
  - (4) In subsection (3)(b) “protected testamentary disposition” means a disposition effected by provisions of the settlor's will that at the settlor's death are, in substance, the same as they were immediately before 10 December 2014.”
- 3 (1) Section 66 (rate of ten-yearly charge) is amended as follows.
- (2) In subsection (4)—
    - (a) omit paragraph (b) and the “and” following it,
    - (b) in paragraph (c), before “property” insert “ relevant ”, and
    - (c) at the end of paragraph (c) insert—
      - “(d) the value of any same-day addition; and
      - (e) where—
        - (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (d) above, and
        - (ii) that other settlement is not a related settlement, the value immediately after that other settlement commenced of the relevant property then comprised in that other settlement;”.
  - (3) In subsection (6)(a), for “paragraphs (b) and (c)” substitute “ paragraphs (c) to (e) ”.
- 4 In section 68 (rate before ten-year anniversary), in subsection (5)—
  - (a) in paragraphs (a) and (b), before “property” insert “ relevant ”,
  - (b) omit the “and” following paragraph (b), and
  - (c) for paragraph (c) substitute—
    - “(c) the value, immediately after it became comprised in the settlement, of property which—
      - (i) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and

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- (ii) was relevant property immediately after it became so comprised,  
whether or not the property has remained relevant property comprised in the settlement;
  - (d) the value, at the time it became (or last became) relevant property, of property which—
    - (i) was comprised in the settlement immediately after the settlement commenced and was not then relevant property but became relevant property before the occasion of the charge under section 65 above, or
    - (ii) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and was not relevant property immediately after it became comprised in the settlement, but became relevant property before the occasion of the charge under that section,  
whether or not the property has remained relevant property comprised in the settlement;
  - (e) the value of any same-day addition; and
  - (f) where—
    - (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (e) above, and
    - (ii) that other settlement is not a related settlement,  
the value immediately after that other settlement commenced of the relevant property then comprised in that other settlement.”
- 5 (1) Section 69 (rate between ten-year anniversaries) is amended as follows.
- (2) In subsection (1), for “subsection (2)” substitute “ subsection (2A) ”.
- (3) For subsection (2) substitute—
- “(2) Subsection (2A) below applies—
- (a) if, at any time in the period beginning with the most recent ten-year anniversary and ending immediately before the occasion of the charge under section 65 above (the “relevant period”), property has become comprised in the settlement which was relevant property immediately after it became so comprised, or
  - (b) if—
    - (i) at any time in the relevant period, property has become comprised in the settlement which was not relevant property immediately after it became so comprised, and
    - (ii) at a later time in the relevant period, that property has become relevant property, or

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- (c) if property which was comprised in the settlement immediately before the relevant period, but was not then relevant property, has at any time during the relevant period become relevant property.
- (2A) Whether or not all of the property within any of paragraphs (a) to (c) of subsection (2) above has remained relevant property comprised in the settlement, the rate at which tax is charged under section 65 is to be the appropriate fraction of the rate at which it would last have been charged under section 64 above (apart from section 66(2) above) if—
- (a) immediately before the most recent ten-year anniversary, all of that property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below, and
  - (b) any same-day addition made on or after the most recent ten-year anniversary had been made immediately before that anniversary.”
- (4) In subsection (3)—
- (a) omit the words from “which either” to the end of paragraph (b), and
  - (b) for “purposes of subsection (2)” substitute “ purposes of subsection (2A) ”.
- 6 In section 71F (calculation of settlement rate in order to calculate the tax charged under section 71E), in subsection (9)(b), after “in it” insert “ which was property to which section 71D above applied ”.
- 7 The amendments made by this Schedule have effect in relation to occasions on which tax falls to be charged under Chapter 3 of Part 3 of IHTA 1984 on or after the day on which this Act is passed.

## SCHEDULE 2

Section 16

### BANK LEVY RATES FOR 2016 TO 2021

#### *Bank levy rate for 2016*

- 1 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—
- (a) for “0.105%” substitute “ 0.09% ”, and
  - (b) for “0.21%” substitute “ 0.18% ”.
- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 April 2015)—
- (a) in sub-paragraph (1) for “1 April 2015” substitute “ 1 January 2016 ”;
  - (b) in sub-paragraph (2), in the first column of the table in the substituted Step 7, for “ Any time on or after 1 April 2015 ” substitute “1 April 2015 to 31 December 2015”;
  - (c) at the end of that table add—

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“1 January 2016 to 31 December 2016	0.09%	0.18%”
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- (d) in the italic heading before paragraph 7, for “1 April 2015” substitute “ 1 January 2016 ”.
- (3) The amendments made by sub-paragraphs (1) and (2) come into force on 1 January 2016.
- (4) Sub-paragraphs (5) to (10) apply where—
- (a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity (“E”) for an accounting period of E,
  - (b) the chargeable period in respect of which the amount of the bank levy is charged begins before but ends on or after 1 January 2016, and
  - (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before 1 January 2016 (“pre-commencement instalment payments”).
- (5) Sub-paragraphs (1) to (3) are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.
- (6) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after 1 January 2016, the amount of that instalment payment, or the first of them, is to be reduced by the adjustment amount.
- (7) “The adjustment amount” is the difference between—
- (a) the aggregate amount of the pre-commencement instalment payments determined in accordance with sub-paragraph (5), and
  - (b) the aggregate amount of those instalment payments determined ignoring sub-paragraph (5) (and so taking account of sub-paragraphs (1) to (3)).
- (8) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to sub-paragraphs (4) to (7) (and in regulation 8(2) “that regulation” is to be read accordingly), and
  - (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (4) to (7).
- (9) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to sub-paragraphs (4) to (8).
- (10) In this paragraph—
- “the chargeable period” is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;
- “the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);
- and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

*Bank levy rate for 2017*

- 2 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—

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- (a) for “0.09%” substitute “ 0.085% ”, and
- (b) for “0.18%” substitute “ 0.17% ”.

- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 January 2016)—
  - (a) in sub-paragraph (1) for “2016” substitute “ 2017 ”;
  - (b) at the end of that table add—

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“1 January 2017 to 31 December 2017	0.085%	0.17%”
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- (c) in the italic heading before paragraph 7, for “2016” substitute “ 2017 ”.

- (3) The amendments made by this paragraph come into force on 1 January 2017.

#### *Bank levy rate for 2018*

- 3 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—
  - (a) for “0.085%” substitute “ 0.08% ”, and
  - (b) for “0.17%” substitute “ 0.16% ”.
- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 January 2017)—
  - (a) in sub-paragraph (1) for “2017” substitute “ 2018 ”;
  - (b) at the end of that table add—

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“1 January 2018 to 31 December 2018	0.08%	0.16%”
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- (c) in the italic heading before paragraph 7, for “2017” substitute “ 2018 ”.

- (3) The amendments made by this paragraph come into force on 1 January 2018.

#### *Bank levy rate for 2019*

- 4 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—
  - (a) for “0.08%” substitute “ 0.075% ”, and
  - (b) for “0.16%” substitute “ 0.15% ”.
- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 January 2018)—
  - (a) in sub-paragraph (1) for “2018” substitute “ 2019 ”;
  - (b) at the end of that table add—

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“1 January 2019 to 31 December 2019	0.075%	0.15%”
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- (c) in the italic heading before paragraph 7, for “2018” substitute “ 2019 ”.

- (3) The amendments made by this paragraph come into force on 1 January 2019.

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*Bank levy rate for 2020*

- 5 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—
- (a) for “0.075%” substitute “ 0.07% ”, and
  - (b) for “0.15%” substitute “ 0.14% ”.
- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 January 2019)—
- (a) in sub-paragraph (1) for “2019” substitute “ 2020 ”;
  - (b) at the end of that table add—

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“1 January 2020 to 31 December 2020	0.07% 0.14%”
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- (c) in the italic heading before paragraph 7, for “2019” substitute “ 2020 ”.

- (3) The amendments made by this paragraph come into force on 1 January 2020.

*Bank levy rate for 2021*

- 6 (1) In paragraph 6 of Schedule 19 to FA 2011 (steps for determining the amount of the bank levy), in sub-paragraph (2)—
- (a) for “0.07%” substitute “ 0.05% ”, and
  - (b) for “0.14%” substitute “ 0.1% ”.
- (2) In paragraph 7 of that Schedule (special provision for chargeable periods falling wholly or partly before 1 January 2020)—
- (a) in sub-paragraph (1) for “2020” substitute “ 2021 ”;
  - (b) at the end of that table add—

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“Any time on or after 1 January 2021	0.05% 0.1%”
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- (c) in the italic heading before paragraph 7, for “2020” substitute “ 2021 ”.

- (3) The amendments made by this paragraph come into force on 1 January 2021.

SCHEDULE 3

Section 17

BANKING COMPANIES: SURCHARGE

**PART 1**

MAIN PROVISIONS

- 1 In Part 7A of CTA 2010 (banking companies), after Chapter 3 insert—



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## “CHAPTER 4

### SURCHARGE ON BANKING COMPANIES

#### *Overview*

#### **Overview of Chapter**

- 269D(1) This Chapter contains provision for, and in connection with, a surcharge on the profits of banking companies.
- (2) Section 269DA provides for a sum to be charged on the surcharge profits of a banking company, in excess of the company's surcharge allowance, as if it were an amount of corporation tax.
  - (3) Section 269DB defines “non-banking group relief” for the purposes of calculating a company's surcharge profits.
  - (4) Section 269DC defines “non-banking or pre-2016 loss relief” for the purposes of calculating a company's surcharge profits.
  - (5) Section 269DD defines “relevant transferred-out gain” and “non-banking transferred-in gain” for the purposes of calculating a company's surcharge profits.
  - (6) Sections 269DE to 269DK contain provision for, and in connection with, determining a company's surcharge allowance.
  - (7) Sections 269DL and 269DM apply enactments relating to corporation tax to sums charged under section 269DA, modify those enactments and make other provision about administration and double taxation.
  - (8) Section 269DN contains anti-avoidance provision.
  - (9) Section 269DO contains provision about the interpretation of this Chapter.
  - (10) Chapter 2 (key definitions) contains provision about the interpretation of this Part that is relevant to this Chapter (see, in particular, section 269B (read with section 269DO(2) to (7)) for the meaning of “banking company” and section 269BD for the meaning of “group”).

#### *The surcharge*

#### **Surcharge on banking companies**

- 269D(1) If a company is a banking company in relation to an accounting period (a “chargeable accounting period”), a sum equal to 8% of its surcharge profits for the period, so far as they exceed its surcharge allowance for the period, is to be charged on the company as if it were an amount of corporation tax chargeable on the company.
- (2) For the purposes of this Chapter, a company's “surcharge profits” for a chargeable accounting period are—

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## *TTP + NBGR + NBPLR + RTOG – NBTIG*

where—

“TTP” is the taxable total profits of the company of the chargeable accounting period;

“NBGR” is the amount (if any) of non-banking group relief that is given in determining those taxable total profits (see section 269DB);

“NBPLR” is the amount (if any) of non-banking or pre-2016 loss relief (see section 269DC);

“RTOG” means the sum of any relevant transferred-out gains (see section 269DD);

“NBTIG” means the sum of any non-banking transferred-in gains (see section 269DD);

“RDEC” means any amount brought into account by the company under Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits) as a receipt in calculating the profits of a trade for the chargeable accounting period.

- (3) A company's “surcharge allowance” for a chargeable accounting period is to be determined in accordance with section 269DE where, at any time in that period—
- (a) the company is a member of a group, and
  - (b) one or more other banking companies are members of that group.
- (4) Otherwise, a company's “surcharge allowance” for a chargeable accounting period is to be determined in accordance with section 269DJ.

### *Non-banking group relief*

#### **Meaning of “non-banking group relief”**

- 269DB(1) In section 269DA(2), “non-banking group relief” means group relief that relates to losses or other amounts that the surrendering company has for a surrender period in relation to which it is not—
- (a) a banking company, or
  - (b) an EEA banking company.
- (2) The surrendering company is an “EEA banking company”, in relation to the surrender period, if—
- (a) the group relief relates to surrenderable amounts under Chapter 3 of Part 5 (surrenders made by non-UK resident company resident or trading in the EEA), and
  - (b) condition A or B is met.
- (3) Condition A is that the surrendering company would be a banking company in relation to the surrender period if—
- (a) it were UK resident,

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- (b) any activities carried on by the surrendering company in an EEA territory were carried on in the United Kingdom,
  - (c) where it would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities, it were an authorised person with permission to carry on those activities, and
  - (d) where those activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f), as a result of carrying on those activities and having such permission it would be an IFPRU 730k firm and a full scope IFPRU investment firm.
- (4) Condition B is that the surrendering company is a member of a partnership and the surrendering company would be a banking company if—
- (a) the surrendering company and the partnership were UK resident,
  - (b) any activities carried on by the partnership in an EEA territory were carried on in the United Kingdom,
  - (c) where the partnership would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities, the partnership were an authorised person with permission to carry on those activities, and
  - (d) where those activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f), as a result of carrying on those activities and having such permission the partnership would be an IFPRU 730k firm and a full scope IFPRU investment firm.
- (5) For the purposes of determining whether condition A or B is met, references in section 269B to an accounting period are to be read as references to the surrender period.
- (6) The Treasury may by regulations make provision for, or in connection with, treating companies specified or described in the regulations as being, or as not being, EEA banking companies for the purposes of this section.
- (7) In this section—
- “EEA territory” has the same meaning as in Chapter 3 of Part 5 (see section 112);
  - “surrenderable amounts”, “surrendering company” and “surrender period” have the same meaning as in Part 5 (see section 188(1)).
- (8) Section 269BC (banking companies: supplementary definitions) has effect for the purposes of this section.

#### *Non-banking or pre-2016 loss relief*

#### **Meaning of “non-banking or pre-2016 loss relief”**

269D(1) In section 269DA(2), “non-banking or pre-2016 loss relief” means the aggregate of—

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- (a) any amounts that are deducted in determining the taxable total profits of the company of the chargeable accounting period, in respect of—
    - (i) a non-banking or pre-2016 carried-forward trading loss,
    - (ii) a non-banking or pre-2016 carried-forward non-trading deficit,
    - (iii) non-banking or pre-2016 carried-forward management expenses,
    - (iv) a non-banking or pre-2016 carried-forward UK property loss,
    - (v) a non-banking or pre-2016 carried-forward overseas property loss,
    - (vi) a non-banking or pre-2016 carried-forward excess capital allowance on special leasing,
    - (vii) a non-banking or pre-2016 carried-forward miscellaneous loss, or
    - (viii) a non-banking or pre-2016 carried-forward capital loss, and
  - (b) any used amount, for the chargeable accounting period, in respect of a non-banking or pre-2016 non-trading loss on intangible fixed assets.
- (2) For the purposes of this section—
- (a) a “non-banking” accounting period is an accounting period in relation to which the company was not a banking company, and
  - (b) a “pre-2016” accounting period is an accounting period of the company ending before 1 January 2016.
- (3) “A non-banking or pre-2016 carried-forward trading loss” means a loss which—
- (a) was made in a trade of the company in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under section 45 (carry forward of trade loss against subsequent trade profits).
- (4) “A non-banking or pre-2016 carried-forward non-trading deficit” means a non-trading deficit—
- (a) which the company had from its loan relationships under section 301(6) of CTA 2009 for a non-banking or pre-2016 accounting period, and
  - (b) which is carried forward under section 457 of that Act (carry forward of deficits to accounting periods after deficit period) to be set off against non-trading profits of the chargeable accounting period.
- (5) In subsection (4), “non-trading profits” has the same meaning as in section 457 of CTA 2009.
- (6) “Non-banking or pre-2016 management expenses” means amounts that fall within subsection (7) or (8).
- (7) The amounts within this subsection are amounts—

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- (a) which fall within subsection (2) of section 1223 of CTA 2009 (carry forward of expenses of management and other amounts),
  - (b) which—
    - (i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to a non-banking or pre-2016 accounting period, or
    - (ii) in the case of qualifying charitable donations, were made in such an accounting period, and
  - (c) which are treated by section 1223(3) of CTA 2009 as expenses of management deductible for the chargeable accounting period.
- (8) The amounts within this subsection are amounts of loss which—
- (a) were made in a non-banking or pre-2016 accounting period, and
  - (b) are treated by section 63(3) (carry forward of certain losses made by company with investment business which ceases to carry on UK property business) as expenses of management deductible for the chargeable accounting period for the purposes of Chapter 2 of Part 16 of CTA 2009.
- (9) “A non-banking or pre-2016 carried-forward UK property loss” means a loss which—
- (a) was made by the company in a UK property business in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under section 62(5) (carry forward of UK property business loss to be treated as loss of subsequent accounting period).
- (10) “A non-banking or pre-2016 carried-forward overseas property loss” means a loss which—
- (a) was made by the company in an overseas property business in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under section 66(3) (carry forward of overseas property business loss against subsequent losses of that kind).
- (11) “A non-banking or pre-2016 carried-forward excess capital allowance on special leasing” means an amount of capital allowance—
- (a) to which the company was entitled for a non-banking or pre-2016 accounting period, and
  - (b) which must be deducted under section 260 of CAA 2001 (special leasing: corporation tax, excess allowance) from income of the company for the chargeable accounting period.
- (12) “A non-banking or pre-2016 carried-forward miscellaneous loss” means a loss which—
- (a) was made by the company in a transaction within subsection (2) of section 91 (relief for losses from miscellaneous transactions) in a non-banking or pre-2016 accounting period, and
  - (b) is carried forward to the chargeable accounting period under subsection (6) of that section (carry forward of miscellaneous losses against miscellaneous income).

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- (13) “A non-banking or pre-2016 carried-forward capital loss” means an allowable loss which—
- (a) accrued to the company in a non-banking or pre-2016 accounting period or as a result of a non-banking loss transfer, and
  - (b) is to be deducted under section 8(1)(b) of TCGA 1992 (deduction of allowable losses from previous accounting periods) from the total amount of chargeable gains accruing to the company in the chargeable accounting period.
- (14) A “non-banking loss transfer” is a transfer to the company of the whole or any part of an allowable loss, by an election under section 171A of TCGA 1992 (reallocation within group), from a non-banking company.
- (15) In subsection (14) “non-banking company” means a company that is not a banking company at the time that the allowable loss, or such part of it as the election transfers, is treated as accruing by virtue of the election (see, in particular, section 171B(3) of TCGA 1992).
- (16) The company has “a non-banking or pre-2016 non-trading loss on intangible fixed assets” if it had a non-trading loss under section 751 of CTA 2009 (non-trading gains and losses) on intangible fixed assets in the relevant accounting period.
- (17) The “relevant accounting period” is—
- (a) if in relation to any accounting period beginning on or after 1 January 2016 the company was not a banking company, its most recent non-banking accounting period, and
  - (b) in any other case, the company's last pre-2016 accounting period (if any).
- (18) If all or part of the non-banking or pre-2016 non-trading loss on intangible fixed assets is carried forward as a non-trading debit to the accounting period following the relevant accounting period under section 753(3) of CTA 2009 (“the initially carried-forward debit”), there is a “used amount”, for the chargeable accounting period, in respect of that loss if—
- (a) the initially carried-forward debit exceeds the aggregate of any used amounts, for any previous chargeable accounting periods, in respect of that loss, and
  - (b) there are any non-trading credits for the chargeable accounting period or a non-trading loss on intangible fixed assets is to be set off against the company's total profits for that period under section 753(1) of that Act.
- (19) If there is a used amount for the chargeable accounting period in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets it is to be calculated in accordance with subsections (20) and (21).
- (20) If the remaining carried-forward debit for the chargeable accounting period (see subsection (22)) does not exceed the aggregate of—
- (a) any non-trading credits for that period, and
  - (b) any amount of non-trading loss on intangible fixed assets that is to be set off against the profits of the company for that period under section 753(1) of CTA 2009,

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the used amount, for that period, in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets is equal to the remaining carried-forward debit for that period.

(21) If the remaining carried-forward debit for the chargeable accounting period exceeds the aggregate of any amounts within paragraph (a) or (b) of subsection (20), the used amount, for that period, in respect of the non-banking or pre-2016 non-trading loss on intangible fixed assets is equal to the aggregate of those amounts.

(22) In subsections (18) to (21)—

“non-trading credit” means a non-trading credit in respect of intangible fixed assets for the purposes of Part 8 of CTA 2009;

“the remaining carried-forward debit”, in relation to the chargeable accounting period, means the amount of the excess referred to in subsection (18)(a).

### **Meaning of “relevant transferred-out gain” and “non-banking transferred-in gain”**

269D(1) This section has effect for the purposes of section 269DA(2).

(2) A “relevant transferred-out gain” means a chargeable gain, or any part of a chargeable gain, that—

- (a) is transferred from the company, by an election under section 171A of TCGA 1992 (reallocation within group), to a non-banking company, and
- (b) would have accrued to the company in the chargeable accounting period but for that election.

(3) A “non-banking transferred-in gain” means a chargeable gain, or any part of a chargeable gain, that—

- (a) is transferred to the company, by an election under section 171A of TCGA 1992, from a non-banking company, and
- (b) accrues to the company in the chargeable accounting period as a result of the election.

(4) In this section “non-banking company” means a company that is not a banking company at the time that the chargeable gain, or such part of it as the election transfers, is treated as accruing by virtue of the election (see, in particular, section 171B(3) of TCGA 1992).

### *The surcharge allowance*

### **Surcharge allowance for banking company in a group containing other banking companies**

269D(1) This section makes provision as to the surcharge allowance of a banking company for a chargeable accounting period where, at any time in the period—

- (a) the banking company is a member of a group, and
- (b) one or more other banking companies are members of that group.

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- (2) The banking company's surcharge allowance for the chargeable accounting period is so much of its available surcharge allowance for the period as it specifies in its company tax return as its surcharge allowance for the period.
- (3) The banking company's "available surcharge allowance" for the chargeable accounting period is the sum of—
- (a) any amounts of group surcharge allowance allocated to the company for the period in accordance with sections 269DF to 269DI, and
  - (b) the appropriate amount of non-group surcharge allowance of the company for the period,
- up to a limit of £25,000,000.
- (4) The "appropriate amount of non-group surcharge allowance" of the company, for the chargeable accounting period, is—

$$\frac{DNG}{DAC} \times \pounds 25,000,000$$

where—

"DNG" is the number of days in the period on which the company is not a member of a group that has another member that is a banking company;

"DAC" is the total number of days in the period.

- (5) If the chargeable accounting period is less than 12 months—
- (a) the appropriate amount of non-group surcharge allowance, and
  - (b) the limit in subsection (3),
- are proportionally reduced.
- (6) The sum of—
- (a) any amount specified under subsection (2) for the chargeable accounting period, and
  - (b) any amount that is specified under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period,
- may not exceed the available surcharge allowance for the period.
- (7) Section 269DK contains provision about what happens if the requirement in subsection (6) is not met.

### **Group surcharge allowance and the nominated company**

269D(F) This section applies where—

- (a) two or more members of a group are banking companies, and
- (b) all the banking companies that are members of the group together nominate (the "group allowance nomination") one of their number (the "nominated company") for the purposes of this Chapter.



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- (2) The “group surcharge allowance” for the group is £25,000,000 for each accounting period of the nominated company throughout which the group allowance nomination has effect.
- (3) If the group allowance nomination takes effect, or ceases to have effect, part of the way through an accounting period of the nominated company, the “group surcharge allowance” for the group for that period is—

$$\frac{DN}{DAC} \times \pounds 25,000,000$$

where—

“DN” is the number of days in the accounting period on which a group allowance nomination that nominates the nominated company in relation to the group has effect, and

“DAC” is the total number of days in the accounting period.

- (4) If an accounting period of the nominated company is less than 12 months, the group surcharge allowance for that period is proportionally reduced.
- (5) A group allowance nomination must state the date on which it is to take effect (which may be earlier than the date the nomination is made).
- (6) A group allowance nomination is of no effect unless it is signed by the appropriate person on behalf of each company that is, when the nomination is made, a member of the group and a banking company.
- (7) A group allowance nomination ceases to have effect—
  - (a) immediately before the date on which a new group allowance nomination in respect of the group takes effect,
  - (b) upon the appropriate person in relation to a banking company that is a member of the group notifying an officer of Revenue and Customs, in writing, that the group allowance nomination is revoked, or
  - (c) upon the nominated company ceasing to be a banking company or ceasing to be a member of the group.
- (8) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance nomination or any notification under this section including, in particular, provision—
  - (a) about the form and manner in which a nomination or notification may be made,
  - (b) about how a nomination may be revoked and the form and manner of such revocation,
  - (c) requiring a person to notify HMRC of the making or revocation of a nomination,
  - (d) requiring a person to give information to HMRC in connection with the making or revocation of a nomination or the giving of a notification,

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- (e) imposing time limits in relation to making or revoking a nomination or giving a notification, and
  - (f) providing that a nomination or its revocation, or a notification, is of no effect, or ceases to have effect, if time limits or other requirements under the regulations are not met.
- (9) In this Chapter “the appropriate person”, in relation to a company, means—
- (a) the proper officer of the company, or
  - (b) such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purposes of this Chapter.
- (10) Subsections (3) and (4) of section 108 of TMA 1970 (responsibility of company officers: meaning of “proper officer”) apply for the purposes of subsection (9) as they apply for the purposes of that section.

**Group allowance allocation statement: submission**

269D(G) A company must submit a group allowance allocation statement to HMRC for each of its accounting periods in which it is the nominated company in relation to a group.

This is subject to subsections (2) and (3).

- (2) If a company ceases to be the nominated company in relation to a group before it submits a group allowance allocation statement to HMRC for an accounting period—
  - (a) that company may not submit the statement, and
  - (b) the company that is for the time being the nominated company in relation to the group must do so.
- (3) But if a new group allowance nomination in respect of the group takes effect on a date before it is made, that does not affect the validity of the submission of any group allowance allocation statement submitted before the date the new nomination is made.
- (4) A group allowance allocation statement under this section must be received by HMRC within 12 months of the end of the accounting period, of the nominated company, to which it relates.
- (5) A group allowance allocation statement under this section may be submitted at a later time if an officer of Revenue and Customs allows it.
- (6) A group allowance allocation statement under this section must comply with the requirements of section 269DI.

**Group allowance allocation statement: submission of revised statement**

269D(H) This section applies if a group allowance allocation statement has been submitted under section 269DG, or this section, in respect of an accounting period of a company that is, or was, a nominated company (“the nominee’s accounting period”).

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- (2) A revised group allowance allocation statement in respect of the nominee's accounting period may be submitted to HMRC by the company that is for the time being the nominated company in relation to the group.
- (3) But if a new group allowance nomination in respect of the group takes effect on a date before it is made, that does not affect the validity of the submission of any revised group allowance allocation statement submitted before the date the new nomination is made.
- (4) A revised group allowance allocation statement may be submitted on or before whichever is the latest of the following dates—
  - (a) the last day of the period of 36 months after the end of the nominee's accounting period;
  - (b) if notice of enquiry (within the meaning of Schedule 18 to FA 1998) is given into a relevant company tax return, 30 days after the enquiry is completed;
  - (c) if, after such an enquiry, an officer of Revenue and Customs amends the return under paragraph 34(2) of that Schedule, 30 days after the notice of amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (5) A revised group allowance allocation statement may be submitted at a later time if an officer of Revenue and Customs allows it.
- (6) In this section “relevant company tax return” means a company tax return of a banking company for a chargeable accounting period for which an amount of group surcharge allowance was, or could have been, allocated by a previous group allowance allocation statement in respect of the nominee's accounting period.
- (7) The references in subsection (4) to an enquiry into a relevant company tax return do not include an enquiry resulting from an amendment of such a return where—
  - (a) the scope of the enquiry is limited as mentioned in paragraph 25(2) of Schedule 18 to FA 1998 (enquiry into amendments when time limit for enquiry into return as originally submitted is passed), and
  - (b) the amendment relates only to the allocation of group surcharge allowance for the nominee's accounting period.
- (8) A group allowance allocation statement under this section must comply with the requirements of section 269DI.

#### **Group allowance allocation statement: requirements and effect**

- 269DI) This section applies in relation to a group allowance allocation statement submitted under section 269DG or 269DH.
- (2) The statement must be signed by the appropriate person in relation to the company giving the statement.
  - (3) The statement must—
    - (a) identify the group to which it relates,

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- (b) specify the accounting period, of the company that is or was the nominated company, to which the statement relates (“the nominee’s accounting period”),
  - (c) specify the days in the nominee’s accounting period on which that company was the nominated company in relation to the group or state that that company was the nominated company throughout the period,
  - (d) state the group surcharge allowance the group has for the nominee’s accounting period,
  - (e) list one or more of the banking companies that were members of the group in the nominee’s accounting period (“listed banking companies”),
  - (f) allocate amounts of the group surcharge allowance to the listed banking companies, and
  - (g) for each amount of group surcharge allowance allocated to a listed banking company, specify the chargeable accounting period of the listed banking company for which it is allocated.
- (4) An amount of group surcharge allowance allocated to a listed banking company must be allocated to that company for a chargeable accounting period that falls wholly or partly in the nominee’s accounting period.
- (5) The maximum amount of group surcharge allowance that may be allocated, by the group allowance allocation statement, to a listed banking company for a chargeable accounting period of that company is—

$$\frac{DAP}{DNAP} \times GSA$$

where—

“DAP” is the number of days in the chargeable accounting period that are in the nominee’s accounting period;

“DNAP” is the number of days in the nominee’s accounting period;

“GSA” is the group surcharge allowance of the group for the nominee’s accounting period.

- (6) The sum of the amounts allocated to listed banking companies by the group allowance allocation statement may not exceed the group surcharge allowance for the nominee’s accounting period.
- (7) If a group allowance allocation statement is submitted that does not comply with subsection (5) or (6), the company that is, for the time being, the nominated company in relation to the group must submit a revised group allowance allocation statement that does comply with those subsections within 30 days of the date on which the group allowance allocation statement that did not comply was submitted.
- (8) If a group allowance allocation statement—
- (a) complies with those subsections when it is submitted, but
  - (b) subsequently ceases to comply with either of them,

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the company that is, for the time being, the nominated company in relation to the group must submit a revised group allowance allocation statement that does comply with those subsections within 30 days of the date on which the group allowance allocation statement ceased to comply with one of those subsections.

- (9) If a company fails to comply with subsection (7) or (8), an officer of Revenue and Customs may by written notice to the company amend the group allowance allocation statement as the officer thinks fit for the purpose of making it comply with subsections (5) and (6).
- (10) An officer of Revenue and Customs who issues a notice under subsection (9) to a company must, at the same time, send a copy of the notice to each of the listed banking companies.
- (11) The time limits otherwise applicable to the amendment of a company tax return do not apply to any such amendment to the extent that it is made in consequence of a group allowance allocation statement being submitted in accordance with section 269DG or 269DH.
- (12) The Commissioners for Her Majesty's Revenue and Customs may by regulations make further provision about a group allowance allocation statement including, in particular, provision—
  - (a) about the form of a statement and the manner in which it is to be submitted,
  - (b) requiring a person to give information to HMRC in connection with a statement,
  - (c) as to the circumstances in which a statement that is not received by the time specified in section 269DG(4) or 269DH(4) is to be treated as if it were so received, and
  - (d) as to circumstances in which a statement that does not comply with the requirements of this section is to be treated as if it did comply.

### **Surcharge allowance for company not in a group containing other banking companies**

- 269D(1) This section makes provision as to the surcharge allowance of a banking company for a chargeable accounting period where section 269DE (surcharge allowance for banking company in a group containing other banking companies) does not apply.
- (2) The banking company's surcharge allowance for the chargeable accounting period is so much of its available surcharge allowance for the period as it specifies in its company tax return as its surcharge allowance for that period.
  - (3) The banking company's "available surcharge allowance" for the chargeable accounting period is £25,000,000.
  - (4) If the chargeable accounting period is less than 12 months, the banking company's available surcharge allowance for the period is proportionally reduced.
  - (5) The sum of—

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- (a) any amount specified under subsection (2) for the chargeable accounting period, and
  - (b) any amount that is specified under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period, may not exceed the available surcharge allowance for the period.
- (6) Section 269DK contains provision about what happens if the requirement in subsection (5) is not met.

### **Excessive specifications of available surcharge allowance**

269DK(1) This section applies if—

- (a) a banking company's company tax return for a chargeable accounting period—
    - (i) specifies an amount under section 269DE(2) or 269DJ(2) as its surcharge allowance for the period, or
    - (ii) specifies an amount under section 371BI(2) of TIOPA 2010 (calculation of CFC charge on banking companies) for the period, and
  - (b) the requirement in section 269DE(6) or (as the case may be) 269DJ(5) is not met.
- (2) The company must, so far as it may do so, amend the company tax return so that the requirement is met.
- (3) If an officer of Revenue and Customs considers that, as a consequence of the requirement not being met, an insufficient sum has been charged on the company under section 269DA, or at step 5 in section 371BC(1) of TIOPA 2010, for the chargeable accounting period, the officer may make an assessment to tax in the amount which in the officer's opinion ought to be charged.
- (4) The power in subsection (3) is without prejudice to the power to make a discovery assessment under paragraph 41(1) of Schedule 18 to FA 1998.
- (5) If an assessment under subsection (3) is made because a company fails, or is unable, to amend its company tax return in accordance with subsection (2) in consequence of the amount of group surcharge allowance allocated to it for an accounting period being altered, the assessment is not out of time if it is made within 12 months of the date on which the alteration took place.

*Application of Corporation Tax Acts: administration, double taxation etc*

### **Application of enactments applying to corporation tax: assessment, recovery, double taxation etc**

- 269D(1) The provision in section 269DA relating to the charging of a sum as if it were an amount of corporation tax is to be taken as applying all enactments applying generally to corporation tax.
- (2) But this is subject to—
- (a) the provisions of the Taxes Acts,
  - (b) any necessary modifications, and

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- (c) subsection (5).
- (3) The enactments mentioned in subsection (1) include—
- (a) those relating to returns of information and the supply of accounts, statements and reports,
  - (b) those relating to the assessing, collecting and receiving of corporation tax,
  - (c) those conferring or regulating a right of appeal, and
  - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (4) Accordingly, TMA 1970 is to have effect as if any reference to corporation tax included a sum chargeable under section 269DA as if it were an amount of corporation tax (but this does not limit subsections (1) to (3)).
- (5) In the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 (S.I. 1999/358) or any further regulations made under section 32 of FA 1998 (unrelieved surplus advance corporation tax)—
- (a) references to corporation tax do not include a sum chargeable on a banking company under section 269DA as if it were an amount of corporation tax, and
  - (b) references to profits charged to corporation tax do not include surcharge profits.
- (6) Part 2 of TIOPA 2010 (double taxation relief) applies to a sum chargeable under section 269DA as if it were an amount of corporation tax, subject to subsections (7) to (9).
- In those subsections, “credit for foreign tax” means a credit allowable under that Part.
- (7) A non-banking or pre-2016 carried-forward credit for foreign tax is not to be allowed against a sum chargeable on a company under section 269DA, for a chargeable accounting period, as if it were an amount of corporation tax.
- (8) “A non-banking or pre-2016 carried-forward credit for foreign tax” is a credit for foreign tax in respect of an amount—
- (a) which was an amount of a credit for foreign tax that would (ignoring section 42 of TIOPA 2010) have been allowable against corporation tax of the kind mentioned in section 72(1)(a) of that Act in an accounting period of the company—
    - (i) in relation to which the company was not a banking company, or
    - (ii) ending before 1 January 2016, and
  - (b) which is treated under paragraph (a) of section 73(1) of that Act as if it were foreign tax of the kind mentioned in that paragraph in relation to the chargeable accounting period.
- (9) Any credit for foreign tax that is allowable against—
- (a) corporation tax for an accounting period, and

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- (b) a sum chargeable for that period under section 269DA as if it were an amount of corporation tax,  
is to be allowed against the corporation tax first, before any of the credit then remaining is allowed against the sum so chargeable.
- (10) In this section “the Taxes Acts” has the same meaning as in TMA 1970 (see section 118(1) of that Act).

**Payments in respect of the surcharge: information to be provided**

269D~~M~~**I**) This section applies if—

- (a) a sum is chargeable on a company (“the chargeable company”) under section 269DA, for a chargeable accounting period, as if it were an amount of corporation tax, and
- (b) a payment is made (whether or not by the chargeable company) that is wholly or partly in respect of that sum.
- (2) The responsible company must notify an officer of Revenue and Customs in writing, on or before the date the payment is made, of the amount of the payment that is in respect of the sum that is chargeable under section 269DA.
- (3) “The responsible company” is—
  - (a) if the chargeable company is party to relevant group payment arrangements, the company that is, under those arrangements, to discharge the liability of the chargeable company to pay corporation tax for the chargeable accounting period, and
  - (b) otherwise, the chargeable company.
- (4) “Relevant group payment arrangements” means arrangements under section 59F(1) of TMA 1970 (arrangements for paying of tax on behalf of group members) that relate to the chargeable accounting period.
- (5) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.
- (6) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).

*Anti-avoidance*

**Profit and loss shifting to avoid or reduce surcharge liability**

269D~~N~~**I**) Subsection (3) applies in relation to a banking company if—

- (a) there are arrangements that result in a relevant transfer, and
- (b) the main purpose, or one of the main purposes, of the arrangements is to avoid, or reduce, a sum being charged on the banking company under section 269DA.
- (2) There is a “relevant transfer” if there is, in substance—



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- (a) a transfer (directly or indirectly) of all or a significant part of the surcharge profits of the banking company, for a chargeable accounting period, to a non-banking company, or
  - (b) a transfer (directly or indirectly) of a loss or deductible amount to the banking company, for a chargeable accounting period, from a non-banking company, resulting in the elimination or significant reduction of the banking company's surcharge profits for that period.
- (3) For the purposes of section 269DA, the surcharge profits of the banking company, for the chargeable accounting period, are to be taken to be what they would have been had the relevant transfer not taken place.
- (4) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - “CFC” and “chargeable company” have the same meaning as in Part 9A of TIOPA 2010 (controlled foreign companies) (see section 371VA of that Act);
  - “deductible amount” means—
    - (a) an expense of a trade, other than an amount treated as such an expense by section 450(a) of CAA 2001 (research and development allowances treated as expenses in calculating profits of a trade),
    - (b) an expense of a UK property business or overseas property business,
    - (c) an expense of management of a company's investment business within the meaning of section 1219 of CTA 2009,
    - (d) a non-trading debit within the meaning of Parts 5 and 6 of CTA 2009 (loan relationships and relationships treated as such) (see section 301(2) of that Act), or
    - (e) a non-trading debit within the meaning of Part 8 of CTA 2009 (intangible fixed assets) (see section 746 of that Act);
  - “non-banking company” means a company that, at any time when the arrangements mentioned in subsection (1) have effect, is neither—
    - (a) a banking company, nor
    - (b) a CFC in relation to which a banking company is a chargeable company.

### *Interpretation*

#### **Interpretation**

269D(1) In this Chapter—

- “the appropriate person” has the meaning given by 269DF(9);
- “banking company”, subject to subsections (2) to (7), has the meaning given by section 269B;
- “chargeable accounting period” has the meaning given by section 269DA(1);

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“company tax return” has the same meaning as in Schedule 18 to FA 1998;

“group” has the meaning given by section 269BD;

“group allowance allocation statement” means a group allowance allocation statement submitted under section 269DG or 269DH;

“group allowance nomination” has the meaning given by section 269DF(1);

“group surcharge allowance” has the meaning given by section 269DF;

“HMRC” means Her Majesty's Revenue and Customs;

“nominated company” has the meaning given by section 269DF(1);

“surcharge allowance” has the meaning given by section 269DA(3) and (4);

“surcharge profits” has the meaning given by section 269DA(2).

- (2) Subsections (3) to (7) apply for the purposes of determining whether a company is a banking company for the purposes of this Chapter.
- (3) Condition D in section 269B(5) is not met by reason of the relevant entity accepting deposits in a period if—
- (a) the liabilities shown in the relevant entity's balance sheet for that period, so far as they result from it accepting deposits, do not amount to a substantial proportion of the entity's total liabilities and equity shown in that balance sheet, and
  - (b) if the company is a member of a group at any time in that period, no other company is a member of the group, and a UK deposit-taker, at any time in the period.
- (4) In subsection (3)(b) “UK deposit-taker” means—
- (a) a UK resident company that accepts deposits, or
  - (b) a non-UK resident company that accepts deposits in the course of carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- (5) For the purposes of section 269BA(1)(e) (exclusion of entities carrying on only asset management activities), an entity does not carry on a relevant regulated activity other than asset management activities by accepting deposits if—
- (a) accepting deposits is ancillary to asset management activities the entity carries on, and
  - (b) the entity would not accept deposits but for the fact that it carries on asset management activities.
- (6) In subsection (5) “asset management activities” has the meaning given by section 269BC(2).
- (7) For the purposes of subsections (3) to (5) references to accepting deposits are to carrying on activity which is (or, if it were carried on in the United Kingdom, would be) a regulated activity for the purposes of FISMA 2000 by virtue of article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (accepting deposits).”

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

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## PART 2

### CONSEQUENTIAL AMENDMENTS

#### TMA 1970

- 2 In section 59E of TMA 1970 (further provision as to when corporation tax is due and payable), in subsection (11), after paragraph (b) insert—
- “(ba) to any sum chargeable on a company under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax chargeable on the company;”.

#### FA 1998

- 3 (1) Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.
- (2) In paragraph 1 (meaning of “tax”)—
- (a) before the entry relating to section 455 of CTA 2010 insert— “section 269DA of the Corporation Tax Act 2010 (surcharge on banking companies), ”, and
- (b) in the entry relating to section 455 of CTA 2010, for “the Corporation Tax Act 2010” substitute “ that Act ”.
- (3) In paragraph 8(1) (calculation of tax payable), in the third step, after paragraph 1 insert—
- “(1ZA) Any sum chargeable under section 269DA of that Act (surcharge on banking companies).”

#### CTA 2010

- 4 CTA 2010 is amended as follows.
- 5 In section 269A (overview of Part 7A), at the end insert—
- “(4) Chapter 4 contains provision for a surcharge on banking companies.”
- 6 In Schedule 4 to CTA 2010 (index of defined expressions), at the appropriate places insert—

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“the appropriate person (in Chapter 4 of section 269DF(9))  
Part 7A)

“chargeable accounting period (in section 269DA(1))  
Chapter 4 of Part 7A)

“company tax return (in Chapter 4 of Part section 269DO”  
7A)

“group allowance allocation statement section 269DO”  
(in Chapter 4 of Part 7A)

“group allowance nomination (in section 269DF(1))  
Chapter 4 of Part 7A)

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“group surcharge allowance (in Chapter section 269DF”  
4 of Part 7A)

“HMRC (in Chapter 4 of Part 7A) section 269DO”

“nominated company (in Chapter 4 of section 269DF(1)”  
Part 7A)

“surcharge allowance (in Chapter 4 of section 269DA(3) and (4)”  
Part 7A)

“surcharge profits (in Chapter 4 of Part section 269DA(2)”  
7A)

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#### *TIOPA 2010*

7 Part 9A of TIOPA 2010 (controlled foreign companies) is amended as follows.

8 In section 371BC (charging the CFC charge), at step 5 in subsection (1), for “and  
371BH” substitute “ to 371BI ”.

9 After section 371BH insert—

#### **“371BI Banking companies**

(1) In relation to a chargeable company that is a banking company for the relevant corporation tax accounting period, step 5 in section 371BC(1) is to be taken in accordance with subsections (2) to (5).

(2) The amount given by paragraph (a) at step 5 is to be increased by an amount equal to—

$$(PCP - SASA) \times SP$$

where—

“PCP” is P% of the CFC's chargeable profits;

“SASA” is so much (if any) of the chargeable company's available surcharge allowance as the company specifies for the purposes of this subsection in its company tax return for the relevant corporation tax accounting period;

“SP” is the percentage specified in section 269DA(1) of CTA 2010 (surcharge on banking companies).

(3) Subsection (5) applies in relation to the chargeable company if—

- (a) there are arrangements that result in a relevant transfer, and
- (b) the main purpose, or one of the main purposes, of the arrangements is to avoid, or reduce, a sum being charged on the chargeable company at step 5 in section 371BC(1) in consequence of subsection (2).

(4) There is a “relevant transfer” if there is, in substance—

- (a) a transfer (directly or indirectly) of all or a significant part of the chargeable profits of the CFC, for the CFC's accounting period, to a non-banking company, or

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- (b) a transfer (directly or indirectly) of a loss or deductible amount to the CFC, for the CFC's accounting period, from a non-banking company, resulting in the elimination or significant reduction of the CFC's chargeable profits for that period.
- (5) For the purposes of subsection (2), the CFC's chargeable profits are to be taken to be what they would have been had the relevant transfer not taken place.
- (6) Subsections (7) to (9) apply in relation to an accounting period of a CFC (“the relevant CFC accounting period”) where—
  - (a) a company (“C”)—
    - (i) has an accounting period for corporation tax purposes during which the relevant CFC accounting period ends, and
    - (ii) is a banking company for that accounting period,
  - (b) there are arrangements that—
    - (i) do not result in a relevant transfer, but
    - (ii) disregarding subsections (7) to (9), would result in some or all of the CFC's chargeable profits for the relevant CFC accounting period being apportioned to one or more non-banking companies at step 3 in section 371BC(1) instead of being apportioned to C, and
  - (c) the main purpose, or one of the main purposes, of the arrangements is to avoid, or reduce, a sum being charged on C at step 5 in section 371BC(1) in consequence of subsection (2) (whether in relation to the relevant CFC accounting period or any other accounting period of the CFC).
- (7) If the arrangements would otherwise result in C not having a relevant interest in the CFC, C is to be treated as having the relevant interest in the CFC.
- (8) The CFC's chargeable profits and creditable tax for the relevant CFC accounting period are to be apportioned in accordance with section 371QC(2) (and not section 371QD if that section would otherwise apply).
- (9) The apportionments must (in particular) be made in a way which, so far as practicable, counteracts the result of the arrangements mentioned in subsection (6)(b)(ii).
- (10) In this section—
  - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - “available surcharge allowance” means available surcharge allowance under section 269DE or (as the case may be) 269DJ of CTA 2010;
  - “banking company” has the same meaning as in Chapter 4 of Part 7A of CTA 2010 (see section 269DO of that Act);
  - “deductible amount” means—
    - (a) an expense of a trade, other than an amount treated as such an expense by section 450(a) of CAA 2001 (research and

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development allowances treated as expenses in calculating profits of a trade),

- (b) an expense of a UK property business or overseas property business,
- (c) an expense of management of a company's investment business within the meaning of section 1219 of CTA 2009,
- (d) a non-trading debit within the meaning of Parts 5 and 6 of CTA 2009 (loan relationships and relationships treated as such) (see section 301(2) of that Act), or
- (e) a non-trading debit within the meaning of Part 8 of CTA 2009 (intangible fixed assets) (see section 746 of that Act);

“company tax return” has the same meaning as in Schedule 18 to FA 1998;

“non-banking company” means a company that, at any time when the arrangements mentioned in subsection (3) or (as the case may be) (6) have effect, is neither—

- (a) a banking company, nor
- (b) a CFC in relation to which a banking company is a chargeable company.

- (11) Sections 269DE(6) and 269DJ(5) of CTA 2010 contain restrictions on the amount of available surcharge allowance that can be specified and section 269DK of that Act makes provision about what happens if those restrictions are exceeded.”

10 After section 371UB insert—

**“371UBA Payments in respect of a charge on a banking company: information to be provided**

- (1) This section applies if—
  - (a) a sum is charged on a chargeable company at step 5 in section 371BC(1),
  - (b) the chargeable company is a banking company (within the meaning of Chapter 4 of Part 7A of CTA 2010) for the relevant corporation tax accounting period, and
  - (c) a payment is made (whether or not by the chargeable company) that is wholly or partly in respect of the sum charged on the chargeable company as mentioned in paragraph (a).
- (2) The responsible company must notify an officer of Revenue and Customs in writing, on or before the date the payment is made, of the amount of the payment that is in respect of the sum charged on the chargeable company as mentioned in subsection (1)(a).
- (3) “The responsible company” is—
  - (a) if the chargeable company is party to relevant group payment arrangements, the company that is, under those arrangements, to discharge the liability of the chargeable company to pay corporation tax for the relevant corporation tax accounting period, and
  - (b) otherwise, the chargeable company.

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- (4) “Relevant group payment arrangements” means arrangements under section 59F(1) of TMA 1970 (arrangements for paying of tax on behalf of group members) that relate to the relevant corporation tax accounting period.
- (5) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.
- (6) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).
- (7) In this section “relevant corporation tax accounting period” has the meaning given by section 371BC(3).”

#### FA 2015

11 Part 3 of FA 2015 (diverted profits tax) is amended as follows.

12 (1) Section 79 (charge to tax) is amended as follows.

- (2) In subsection (2), for “The” substitute “ Subject to subsections (3) and (3A), the ”.
- (3) In subsection (3), for “But if” substitute “ If ”.
- (4) After subsection (3) insert—

“(3A) If, and to the extent that, the taxable diverted profits are banking surcharge profits or notional banking surcharge profits, subsection (2)(a) has effect in relation to those profits as if the rate specified were 33% rather than 25%.”

(5) In subsection (5)—

- (a) after the definition of “adjusted ring fence profits” insert—

““banking surcharge profits” means surcharge profits within the meaning of Chapter 4 of Part 7A of that Act (see section 269DA(2) of that Act);”;

- (b) after the definition of “notional adjusted ring fence profits” insert—

““notional banking surcharge profits”, in relation to the company, means the total of—

- (a) profits within section 85(5)(a) or 91(5)(a), to the extent that (assuming they were profits of the company chargeable to corporation tax) they would have been banking surcharge profits, and
- (b) any amounts of relevant taxable income of a company (“CC”) within section 85(4)(b) or (5)(b) or 91(4)(b) or (5)(b), to the extent that (assuming those amounts were profits of CC chargeable to corporation tax) they would have been banking surcharge profits of CC.”

13 In section 107 (meaning of “effective tax mismatch outcome”), in the definition of “relevant tax” in subsection (8), after paragraph (a) insert—

- “(aa) a sum chargeable under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax,”.

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### PART 3

#### COMMENCEMENT

##### *Surcharge*

- 14 (1) The amendments made by paragraphs 1 and 4 to 6 of this Schedule have effect for accounting periods beginning on or after the commencement date.
- (2) Where a company has an accounting period beginning before the commencement date and ending on or after that date (“the straddling period”), sub-paragraphs (3) to (10) apply.
- (3) For the purposes of determining whether the surcharge is chargeable on the company for the straddling period and, if so, in what amount—
- (a) so much of the straddling period as falls before the commencement date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and
  - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—
    - (i) in accordance with section 1172 of CTA 2010 (time basis), or
    - (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (4) Accordingly, the surcharge chargeable on the company for the straddling period (if any) is equal to the surcharge that would be chargeable on the company, in accordance with sub-paragraph (3), for the separate accounting period beginning with the commencement date.
- (5) Sub-paragraphs (6) to (8) apply where—
- (a) the surcharge is chargeable on the company for the straddling period, and
  - (b) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of the company for the straddling period, were treated as becoming due and payable before the commencement date (“pre-commencement instalments”).
- (6) The surcharge chargeable on the company for the straddling period is to be ignored for the purposes of determining the amount of any pre-commencement instalment.
- (7) The first instalment, in respect of the total liability of the company for the straddling period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date is to be increased by the adjustment amount.
- (8) “The adjustment amount” is the difference between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (6), and
  - (b) the aggregate amount of those instalments determined ignoring sub-paragraph (6) (and so taking into account the surcharge chargeable on the company for the straddling period).
- (9) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations



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- are to be read as including a reference to sub-paragraphs (5) to (8) (and in regulation 7(2) “the regulation in question”, and in regulation 8(2) “that regulation”, are to be read accordingly), and
- (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (5) to (8).
- (10) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E of that Act is to be read as including a reference to sub-paragraphs (5) to (9).
- (11) For the purposes of sections 269DF to 269DI of CTA 2010, if a nominated company has an accounting period beginning before and ending on or after the commencement date, so much of that period as falls before that date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods.
- (12) For the purposes of section 269DN of CTA 2010, it does not matter whether arrangements of the kind mentioned in subsection (1) of that section are entered into before or after this Act is passed.
- (13) In this paragraph “the surcharge” means a sum chargeable under section 269DA of CTA 2010 as if it were an amount of corporation tax.
- 15 The amendment made by paragraph 3 has effect for accounting periods ending on or after the commencement date.

#### *CFCs*

- 16 (1) The amendments made by paragraphs 7 to 10 of this Schedule (and the amendment made by paragraph 1 of this Schedule, so far as it relates to those amendments) have effect for accounting periods of CFCs beginning on or after the commencement date.
- (2) Sub-paragraph (3) applies where a CFC has an accounting period beginning before the commencement date and ending on or after that date (“the straddling period”).
- (3) For the purposes of calculating the sum charged on any chargeable company at step 5 of section 371BC(1) of TIOPA 2010 in relation to the straddling period—
- (a) so much of the straddling period as falls before the commencement date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and
- (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—
- (i) on a time basis according to the respective lengths of the separate accounting periods, or
- (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (4) The sum charged on each chargeable company at step 5 in section 371BC(1) of TIOPA 2010 is the aggregate of the sums that would be charged on that company by taking that step, in accordance with sub-paragraph (3), in relation to each of the separate accounting periods.
- (5) Sub-paragraphs (6) to (8) apply where—
- (a) an amount is charged on a company at step 5 in section 371BC(1) of TIOPA 2010 as if were an amount of corporation tax for a relevant corporation tax accounting period,

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- (b) that relevant corporation tax accounting period begins before, but ends on or after, the commencement date, and
  - (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of the company for the relevant corporation tax accounting period, were treated as becoming due and payable before the commencement date (“pre-commencement instalments”).
- (6) The amendments made by paragraphs 7 to 10 of this Schedule are to be ignored for the purposes of determining the amount of any pre-commencement instalment.
- (7) The first instalment, in respect of the total liability of the company for the relevant corporation tax accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date is to be increased by the adjustment amount.
- (8) “The adjustment amount” is the difference (if any) between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (6), and
  - (b) the aggregate amount of those instalments determined ignoring sub-paragraph (6) (and so taking into account any amount charged on the company at step 5 in section 371BC(1) of TIOPA 2010 for the relevant corporation tax accounting period as a result of the amendments made by paragraphs 7 to 10 of this Schedule).
- (9) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to sub-paragraphs (5) to (8) (and in regulation 7(2) “the regulation in question”, and in regulation 8(2) “that regulation”, are to be read accordingly), and
  - (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (5) to (8).
- (10) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E of that Act is to be read as including a reference to sub-paragraphs (5) to (9).
- (11) For the purposes of section 371BI of TIOPA 2010, it does not matter whether arrangements of the kind mentioned in subsection (3) of that section are entered into before or after this Act is passed.
- (12) In this paragraph—
- “accounting period”, “CFC” and “chargeable company” have the same meaning as in Part 9A of TIOPA 2010 (see section 371VA of that Act);
  - “relevant corporation tax accounting period” has the meaning given by section 371BC(3) of that Act.

*Diverted profits tax*

- 17 (1) The amendments made by paragraphs 11 to 13 of this Schedule have effect in relation to accounting periods beginning on or after the commencement date.
- (2) For the purposes of sub-paragraph (1), if an accounting period of a company begins before, and ends on or after, the commencement date (“the straddling period”)—

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- (a) so much of the straddling period as falls before that date and so much of that period as falls on or after that date are to be treated as separate accounting periods, and
  - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned on a just and reasonable basis.
- (3) Subsections (1) to (5) of section 113 of FA 2015 (meaning of “accounting period”) have effect for the purposes of this paragraph as they have effect for the purposes of Part 3 of that Act.

#### *Interpretation*

- 18 In this Part of this Schedule—
- “the commencement date” means 1 January 2016;
  - “the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);
- and references to the total liability of a company for an accounting period are to be read in accordance with regulation 2(3) of the Instalment Payment Regulations.

### SCHEDULE 4

Section 23

#### PENSIONS: ANNUAL ALLOWANCE

### PART 1

#### ALIGNMENT OF PENSION INPUT PERIODS WITH TAX YEARS

- 1 Part 4 of FA 2004 is amended as follows.
- 2 In section 238 (pension input periods)—
- (a) in the title, after “period” insert “ : arrangement commencing before 9 July 2015 ”, and
  - (b) in subsection (1), after “In the case of an arrangement under a registered pension scheme” insert “ where the relevant commencement date is before 9 July 2015, but subject to section 238ZA, ”.
- 3 After section 238 insert—

#### **“238ZA Pension input periods from 9 July 2015 for existing arrangement**

- (1) If the relevant commencement date in the case of an arrangement under a registered pension scheme is before 9 July 2015, section 238(1) and (3) to (6) apply in relation to the arrangement subject to the following.
- (2) If a pension input period for the arrangement—
  - (a) begins with 8 July 2015 or an earlier day, and
  - (b) but for this subsection would end with 9 July 2015 or a later day, it ends with 8 July 2015.

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- (3) If a pension input period for the arrangement ends with 8 July 2015 (whether or not because of subsection (2)), the subsequent pension input periods for the arrangement are—
  - (a) the period beginning with 9 July 2015 and ending with 5 April 2016, and
  - (b) the tax year 2016-17 and each subsequent tax year.
- (4) No nominations for the purposes of section 238(3) may be made on or after 9 July 2015.
- (5) “The relevant commencement date” has the meaning given by section 238(2).

### **238ZB Pension input periods for arrangement commencing after 8 July 2015**

- (1) In the case of an arrangement under a registered pension scheme where the relevant commencement date is 9 July 2015 or later, the following are pension input periods—
    - (a) the period beginning with the relevant commencement date and ending with the first 5 April after the relevant commencement date (or, if the relevant commencement date is itself 5 April, that date), and
    - (b) each tax year beginning after the end of that period.
  - (2) “The relevant commencement date” has the meaning given by section 238(2).
  - (3) Once the individual has become entitled to all the benefits which may be provided to the individual under the arrangement, the last pension input period in the case of the arrangement is that in which that was first so.”
- 4 (1) Omit section 227E (pension input periods ending in, but before the end of, a tax year).
- (2) In consequence—
- (a) in section 227B(3)(c) (amounts required to be included by section 227E(3) etc)—
    - (i) omit “227E(3) or”,
    - (ii) for “but before” substitute “ and contain ”, and
    - (iii) omit “or that end in the year and contain that day”,
  - (b) in section 227C(2) omit paragraph (a) (which refers to section 227E(2)) and the “and” following it,
  - (c) in section 227C(2)(b), for “that day” substitute “ the day on which rights are first flexibly accessed ”, and
  - (d) omit section 227D(6) (cases where section 227E(2) applies).
- (3) The amendments made by this paragraph have effect for the post-alignment tax year (see the section 228C(2) inserted by this Schedule) and subsequent tax years.
- 5 In section 280(2) (index of defined expressions), in the entry for “pension input period”, for “section 238” substitute “ sections 238 to 238ZB ”.

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

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## PART 2

ANNUAL ALLOWANCE FOR, AND CARRY-FORWARD FROM, 2015-16

6 In Part 4 of FA 2004, after section 228B insert—

### “228C Annual allowance for, and carry-forward from, 2015-16

- (1) The provisions relating to the annual allowance charge (whether provisions contained in or made under this or any other Act) have effect subject to the following rules.

*2015-16 split into two tax years for annual allowance purposes*

*2015-16 split into two tax years for annual allowance purposes*

- (2) For the purposes of those provisions but subject to subsection (3), the tax year 2015-16 is to be treated as consisting of two tax years as follows—
- (a) one beginning with 6 April 2015 and ending with 8 July 2015 (“the pre-alignment tax year”), and
  - (b) one beginning with 9 July 2015 and ending with 5 April 2016 (“the post-alignment tax year”).
- (3) Despite subsection (2)—
- (a) separate annual allowance charges for each of the pre-alignment and post-alignment tax years cannot arise, but a single annual allowance charge for the tax year 2015-16 arises if the individual has a chargeable amount for either or each of the pre-alignment and post-alignment tax years, and
  - (b) that single annual allowance charge is calculated as if—
    - (i) in section 227(4) the reference to the chargeable amount were a reference to the sum of the chargeable amounts for the pre-alignment and post-alignment tax years, and
    - (ii) in section 227(4A) to (4C) each reference to the tax year were to the tax year 2015-16.

*Double allowances allocated to earlier part of 2015-16*

*Double allowances allocated to earlier part of 2015-16*

- (4) For the pre-alignment tax year—
- (a) the amount specified in section 228(1) (annual allowance for tax year) is treated as being £80,000, and
  - (b) in each of sections 227ZA(1)(b) and 227B(1)(b) and (2), the reference to £10,000 is treated as a reference to £20,000.

*Allowances for later part of 2015-16 limited to carried-forward allowances*

*Allowances for later part of 2015-16 limited to carried-forward allowances*

- (5) Where the individual was a member of a registered pension scheme at some time in the pre-alignment tax year then, for the post-alignment tax year—
- (a) the amount specified in section 228(1) is treated as being nil,

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- (b) section 227B(2) (amount of alternative annual allowance) has effect as if “AA” were substituted for “AA – £10,000”,
- (c) if the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, the reference to £10,000 in each of sections 227ZA(1)(b) and 227B(1)(b) is treated as being a reference to nil, and
- (d) if the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, the reference to £10,000 in each of sections 227ZA(1)(b) and 227B(1)(b) is treated as being a reference—
  - (i) to nil where the money-purchase input sub-total in the individual's case for the pre-alignment tax year is £20,000 or more, or
  - (ii) to the amount equal to £20,000 minus that sub-total where that sub-total is more than £10,000 but less than £20,000.

*Limit on carry-forward of unused allowances from earlier part of 2015-16*

*Limit on carry-forward of unused allowances from earlier part of 2015-16*

- (6) Where the current tax year for the purposes of section 228A (carry-forward of annual allowance) is the post-alignment tax year—
  - (a) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, and
    - (ii) the excess mentioned in section 228A(5)(a) would otherwise be more than £40,000,
that excess is treated as being £40,000, and
  - (b) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, and
    - (ii) the excess mentioned in section 228A(5)(a) would otherwise be more than £30,000,
that excess is treated as being £30,000.

*Further provisions about carry-forward of unused allowances*

*Further provisions about carry-forward of unused allowances*

- (7) Where the current tax year for the purposes of section 228A is the post-alignment tax year or the tax year 2016-17, 2017-18 or 2018-19, section 228A applies in relation to that current tax year as if in section 228A(3)(b)—
  - (a) for “either or both of the two” there were substituted “ any one or more of the three ”, and
  - (b) for “(or, where there is an excess for both of those tax years, the excess for both tax years)” there were substituted “ (or, where there is an excess for two or all three of those tax years, the excess for both or all those tax years) ”.

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

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- (8) Where the current tax year for the purposes of section 228A is the tax year 2016-17, 2017-18 or 2018-19—
- (a) if—
- (i) the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, and
- (ii) the excess within section 228A(3)(b) in the case of the pre-alignment tax year would otherwise be more than £40,000, that excess is treated as being £40,000 (and accordingly the amount aggregated under section 228A(5) in respect of that excess is so much of the £40,000 as has not been used up),
- (b) if—
- (i) the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, and
- (ii) the excess within section 228A(3)(b) in the case of the pre-alignment year would otherwise be more than £30,000, that excess is treated as being £30,000 (and accordingly the amount aggregated under section 228A(5) in respect of that excess is so much of the £30,000 as has not been used up), and
- (c) in calculating for the purposes of section 228A(6) the amount of which of the excesses for different tax years had effect to reduce or eliminate the annual allowance charge for the post-alignment tax year, the amount of the excess for the pre-alignment tax year is to be taken to have done so before that for any other tax year and, subject to that, the amount of the excess for an earlier tax year is to be taken to have done so before that for a later year.

*Supplementary provision*

*Supplementary provision*

- (9) For the pre-alignment tax year, section 229(3) applies as if the reference to the end of the tax year were a reference to the end of the post-alignment tax year.”

### PART 3

#### CALCULATION OF PENSION INPUT AMOUNTS FOR PERIODS ENDING IN 2015-16

- 7 Part 4 of FA 2004 is amended as follows.
- 8 In section 229 (total pension input amount), after subsection (4) insert—
- “(5) Subsection (2) is subject to section 237ZA (calculation of pension input amounts for input periods ending in 2015-16).”
- 9 After section 237 insert—

#### “237ZA Pension input amounts for input periods ending in 2015-16

- (1) This section applies where the tax year is the pre-alignment tax year or the post-alignment tax year (see section 228C(2)).

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

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*Modified rules for cash balance, or defined benefits, arrangement*

*Modified rules for cash balance, or defined benefits, arrangement*

- (2) The rules for calculating the pension input amount in respect of a cash balance arrangement, or a defined benefits arrangement, are modified as follows (and the rules for calculating the pension input amount in respect of a hybrid arrangement have effect accordingly).

*Single input amount to be calculated for combined period*

*Single input amount to be calculated for combined period*

- (3) The pension input amount in respect of the arrangement is the time-apportioned percentage of any increase in the value of the individual's rights under the arrangement during the period (“the combined period”) that consists of the combination of all pension input periods of the arrangement that end—
- on or after 6 April 2015 but on or before 8 July 2015, or
  - on 5 April 2016.
- (4) To calculate the increase (if any) in the value of the individual's rights under the arrangement during the combined period, apply (as the case may be) sections 230 to 232 (except section 230(1)), or sections 234 to 236A (except section 234(1)), as if—
- references to the pension input period were references to the combined period,
  - the combined period were a pension input period of the arrangement,
  - 2.5% were the appropriate percentage specified in section 231(3) or 235(3), and
  - 2.5% were the percentage mentioned in paragraph (c) of the definition of “relevant percentage” given by section 230(5C) or 234(5C),

but paragraph (d) does not have effect for the purposes of the definition of “CPI percentage” given by section 234(5C).

*Apportioning input amount for combined period to tax years*

*Apportioning input amount for combined period to tax years*

- (5) “The time-apportioned percentage” for the post-alignment tax year is—

$$\frac{272}{D} \times 100$$

and “the time-apportioned percentage” for the pre-alignment tax year is—

$$\frac{D - 272}{D} \times 100$$



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where D is the number of days in the combined period.

*Calculation and apportionment rules modified in certain cases*

*Calculation and apportionment rules modified in certain cases*

- (6) Subsections (3) to (5) have effect subject to the following provisions of this section.

*Exceptions in certain cases where individual is deferred member of scheme*

*Exceptions in certain cases where individual is deferred member of scheme*

- (7) Subsections (3) to (5) do not apply, and subsections (8) and (9) apply instead, if—

- (a) because of section 238ZA(2), a pension input period for the arrangement ends with 8 July 2015,
- (b) another pension input period for the arrangement ends with a day (“the unchanged last day”) after 5 April 2015 but before 8 July 2015, and
- (c) section 230(5B) or 234(5B), when applied separately to each of—
  - (i) the pension input period for the arrangement ending with 8 July 2015, and
  - (ii) the pension input period for the arrangement ending with 5 April 2016,

gives the result that the pension input amount in respect of the arrangement for each of those periods is nil.

- (8) The pension input amount in respect of the arrangement for the post-alignment tax year is nil.

- (9) The pension input amount in respect of the arrangement for the pre-alignment tax year is the amount which would be the pension input amount in respect of the arrangement for the pre-alignment tax year if—

- (a) the pension input period ending with the unchanged last day were the only pension input period for the arrangement ending in the pre-alignment tax year, and
- (b) subsections (3) to (5) were ignored.

*Modifications in some other cases where individual is deferred member of scheme*

*Modifications in some other cases where individual is deferred member of scheme*

- (10) Subsections (11) to (13) apply if—

- (a) because of section 238ZA(2), a pension input period for the arrangement ends with 8 July 2015,
- (b) apart from section 238ZA(2), that pension input period (“the cut-short period”) would have ended with a day (“the original last day”) after 8 July 2015 but before 5 April 2016,

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

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- (c) at or after the beginning of the cut-short period but not later than the original last day, or in an earlier pension input period for the arrangement, the individual becomes a deferred member of the pension scheme that the arrangement is under, and
- (d) were the period—
  - (i) beginning with the day after the original last day, and
  - (ii) ending with 5 April 2016,
 a pension input period for the arrangement, the pension input amount in respect of the arrangement for that period would be nil by virtue of section 230(5B) or 234(5B).
- (11) Subsections (3) to (5) have effect as if the original last day, and not 5 April 2016, were the last day of the combined period (so that, in particular, D in subsection (5) is the number of days in the combined period as so shortened).
- (12) If the individual becomes a deferred member of the pension scheme in a pension input period for the arrangement earlier than the cut-short period—
  - (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and
  - (b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.
- (13) If the individual becomes a deferred member of the pension scheme at or after the beginning of the cut-short period but not later than the original last day, subsection (5) has effect as if for “ 272 ”, in each place, there were substituted the number of days in the period beginning with 9 July 2015 and ending with the original last day.

*Modification where first input period ends with 5 April 2016*

*Modification where first input period ends with 5 April 2016*

- (14) If the first pension input period for the arrangement ends with 5 April 2016—
  - (a) the time-apportioned percentage for the post-alignment tax year is treated as being 100, and
  - (b) the time-apportioned percentage for the pre-alignment tax year is treated as being nil.

*Modification where last input period ends before 9 July 2015*

*Modification where last input period ends before 9 July 2015*

- (15) If the last pension input period for the arrangement ends after 5 April 2015 but before 9 July 2015—
  - (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and
  - (b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.

*Alternative modifications where individual is deferred member of scheme*

*Alternative modifications where individual is deferred member of scheme*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015. (See end of Document for details)*

- (16) Subsections (17) and (18) apply if—
- (a) subsections (8) and (9) do not apply,
  - (b) subsections (11) to (13) do not apply,
  - (c) subsection (14) does not apply, and
  - (d) section 230(5B) or 234(5B), when applied separately to each of—
    - (i) so much of the combined period as consists of the post-alignment tax year, and
    - (ii) the remainder of the combined period (for this purpose treating that remainder as a single pension input period if not otherwise the case),gives the result that the pension input amount in respect of the arrangement for one (but not the other) of those parts of the combined period is nil.
- (17) If the nil result is for so much of the combined period as consists of the post-alignment tax year—
- (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and
  - (b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.
- (18) If the nil result is for so much of the combined period as precedes 9 July 2015—
- (a) the time-apportioned percentage for the pre-alignment tax year is treated as being nil, and
  - (b) the time-apportioned percentage for the post-alignment tax year is treated as being 100.”

#### PART 4

##### REDUCTION OF ANNUAL ALLOWANCE FOR HIGH-INCOME INDIVIDUALS

- 10 (1) In Part 4 of FA 2004, after section 228 insert—

**“228ZA Tapered reduction of annual allowance: high-income individual**

- (1) If the individual is a high-income individual for the tax year, section 228(1) has effect for the tax year in the individual's case as if the amount (“A”) which it specifies for the tax year were reduced (but not below £10,000) by—

$$\left( T - \pounds 150,000 \right) \times \left( \frac{A - \pounds 10,000}{\pounds 60,000} \right)$$

where T is the individual's adjusted income for the tax year.

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- (2) If the amount of the reduction under subsection (1) would otherwise not be a multiple of £1, it is to be rounded down to the nearest amount which is a multiple of £1.
- (3) The individual is a “high-income individual” for the tax year if—
- (a) the individual's adjusted income for the tax year is more than £150,000, and
  - (b) the individual's threshold income for the tax year is more than the amount given by £150,000 minus A.
- (4) The individual's “adjusted income” for the tax year is—
- (a) the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007), plus
  - (b) the amount of any relief under section 193(4) or 194(1) deducted at that Step, plus
  - (c) the amount of any deductions made from employment income of the individual for the year—
    - (i) under section 193(2), or
    - (ii) under Chapter 2 of Part 5 of ITEPA 2003 in accordance with paragraph 51(2) of Schedule 36, plus
  - (d) an amount equal to—
    - (i) the total pension input amount calculated in accordance with section 229(1), less
    - (ii) the amount of any contributions paid by or on behalf of the individual during the year under registered pension schemes of which the individual is a member, less
  - (e) the amount of any lump sum which accrues in the year and in relation to which section 579A of ITEPA 2003 is applied by section 636A(4ZA) of ITEPA 2003.
- (5) The individual's “threshold income” for the tax year is—
- (a) the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007), plus
  - (b) any amount by which what would otherwise be general earnings or specific employment income of the individual for the year has been reduced by relevant salary sacrifice arrangements or relevant flexible remuneration arrangements, less
  - (c) the amount (before any deduction under section 192(1)) of any contribution paid in the year in respect of which the individual is entitled to be given relief under section 192 (relief at source), less
  - (d) the amount of any lump sum which accrues in the year and in relation to which section 579A of ITEPA 2003 is applied by section 636A(4ZA) of ITEPA 2003.
- (6) In subsection (5)—
- “relevant salary sacrifice arrangements” means arrangements—
- (a) under which the individual gives up the right to receive general earnings or specific employment income in return for the making of relevant pension provision, and

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- (b) which are made on or after 9 July 2015 (and whether before or after the start of the employment concerned), and  
“relevant flexible remuneration arrangements” means arrangements—
    - (a) under which the individual and an employer of the individual agree that relevant pension provision is to be made rather than the individual receive some description of employment income, and
    - (b) which are made on or after 9 July 2015 (and whether before or after the start of the employment concerned).
- (7) In subsection (6) “relevant pension provision” means the payment of contributions (or additional contributions) to a pension scheme in respect of the individual or otherwise (by an employer of the individual or any other person) to secure an increase in the amount of the benefits to which the individual or any person who is a dependant of, or is connected with, the individual is actually or prospectively entitled under a pension scheme.
- (8) In subsection (7) “increase” includes increase from nil.
- (9) Section 993 of ITA 2007 (meaning of “connected” persons) applies for the purposes of subsection (7).

#### **228ZB Anti-avoidance in connection with section 228ZA**

- (1) Subsection (5) applies if there are arrangements in respect of which conditions A to C are met.
- (2) Condition A is that it is reasonable to assume that the main purpose, or one of the main purposes, of the arrangements is to reduce the amount of the reduction under section 228ZA(1) in the individual's case—
  - (a) for the tax year, or
  - (b) for two or more tax years which include the tax year.
- (3) Condition B is that the arrangements involve either or both of the following—
  - (a) reducing the individual's adjusted income for the tax year, and
  - (b) reducing the individual's threshold income for the tax year.
- (4) Condition C is that the arrangements involve the reduction within subsection (3), or any of the reductions within subsection (3), being redressed by an increase in the individual's adjusted income, or threshold income, for a different tax year.
- (5) The reduction under section 228ZA(1) in the individual's case for the tax year is to be treated as being what it would be apart from the arrangements.
- (6) In subsection (2) “reduce” includes reduce to nil.
- (7) The increase mentioned in subsection (4) may be an increase in what would be the individual's adjusted income, or threshold income, for the tax year 2015-16 if section 228ZA—
  - (a) had effect for that year, and

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- (b) did so as if the total pension input amount mentioned in section 228ZA(4)(d)(i) were the sum of the total pension input amounts for the pre-alignment and post-alignment tax years (see section 228C(2)).
- (8) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (2) The amendment made by sub-paragraph (1) has effect for the tax year 2016-17 and subsequent tax years.

## PART 5

### OTHER AMENDMENTS

- 11 (1) Part 4 of FA 2004 is amended as follows.
- (2) In section 227 (annual allowance charge)—
- (a) in subsection (1) (charge arises if individual has a chargeable amount) after “has a” insert “ non-zero ”, and
- (b) in subsection (1A) (determination of chargeable amount (if any)) omit “(if any)”.
- (3) In section 227ZA (the chargeable amount) after subsection (3) insert—
- “(4) If there is no such excess, the default chargeable amount is zero.”
- (4) The amendments made by this paragraph have effect for the tax year 2015-16 and subsequent tax years.

## SCHEDULE 5

Section 25

### ENTERPRISE INVESTMENT SCHEME

#### *Introductory*

- 1 Part 5 of ITA 2007 (enterprise investment scheme) is amended as follows.

#### *Limiting eligibility for relief to investments made before 2025*

- 2 (1) Section 157 (eligibility for EIS relief) is amended as follows.
- (2) In subsection (1), after paragraph (a) insert—
- “(aa) the shares are issued before 6 April 2025.”
- (3) After that subsection insert—
- “(1A) The Treasury may, by regulations, amend subsection (1)(aa) to substitute a different date for the date for the time being specified there.”

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### *The investor*

- 3 In section 162 (overview of Chapter 2: the investor), omit the “and” at the end of paragraph (b) and after that paragraph insert—  
“(ba) existing shareholdings (see section 164A), and”.
- 4 After section 164 insert—

### **“164A The existing shareholdings requirement**

- (1) If, at the time the relevant shares are issued, the investor holds any other shares in a company within subsection (2) (“C”), those other shares must be—
- (a) a risk finance investment, or
  - (b) subscriber shares which—
    - (i) were issued to, and have since they were issued been continuously held by, the investor, or
    - (ii) were acquired by the investor at a time when C had not issued any shares other than subscriber shares and had not begun to carry on or make preparations for carrying on any trade or business.
- (2) The companies referred to in subsection (1) are—
- (a) the issuing company, and
  - (b) any company which is a qualifying subsidiary of the issuing company at the time the relevant shares are issued.
- (3) Shares in a company are a “risk finance investment” if—
- (a) they are issued by the company to the investor, and
  - (b) (at any time) the company provides a compliance statement under section 205, 257ED or 257PB in respect of the issue of shares which includes those shares.”
- 5 In section 166 (connection with issuing company), after subsection (1) insert—  
“(1A) But see section 252A(12) for provision which disapplies section 168.”

### *General requirements*

- 6 In section 172 (overview of Chapter 3: general requirements)—
- (a) in paragraph (aa) for “capital schemes” substitute “finance investments”,
  - (b) after that paragraph insert—
    - “(aaa) the maximum risk finance investments at the issue date (see section 173AA),
    - (aab) the maximum risk finance investments at times during period B (see section 173AB),”,
  - (c) omit paragraph (ab), and
  - (d) after paragraph (c) insert—
    - “(ca) the permitted maximum age (see section 175A),”.
- 7 (1) Section 173A (the maximum amount raised annually through risk capital schemes requirement) is amended as follows.

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(2) For subsection (2) substitute—

“(2) In subsection (1), the reference to relevant investments made in the issuing company includes—

- (a) a relevant investment made in any company that has at any time in the year mentioned there been a 51% subsidiary of the issuing company (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the end of that year, not those made after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time in that year been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at the end of that year, ignoring any money so employed after it last ceased to be such a subsidiary), and
- (c) any other relevant investment made in a company if—
  - (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
  - (ii) in that year, after the investment was made, the trade (or a part of it) became a relevant transferred trade (see subsection (2B)).

(2A) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.

(2B) Where—

- (a) in the year mentioned in subsection (1) a trade is transferred—
  - (i) to the issuing company,
  - (ii) to a company that has at any time during that year been a 51% subsidiary of the issuing company, or
  - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,
 (including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, in that year before the company became such a subsidiary but, if the company is not such a subsidiary at the end of that year, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and
- (b) that trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).”

(3) In subsection (3)—

- (a) after paragraph (b) insert—
  - “(ba) an investment is made in the company and (at any time) the company provides a compliance statement under



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section 257PB (tax relief for social investments) in respect of the investment, or”, and

- (b) in paragraph (c), for “Community Guidelines on Risk Capital Investments in Small and Medium-sized Enterprises” substitute “ European Commission's Guidelines on State aid to promote risk finance investment ”.

(4) After subsection (4) insert—

“(5) Section 257KB applies in determining for those purposes when an investment within subsection (3)(ba) is made as it applies for the purposes of Part 5B (tax relief on social investments).”

(5) After subsection (5) insert—

“(6) For the purposes of this section—

- (a) references to a trade include a part of a trade (and references to the carrying on of a trade are to be construed accordingly);
- (b) when determining the amount of money raised by a relevant investment which has been employed for the purposes of a trade such apportionments are to be made as are just and reasonable.

(7) In this section “trade” includes—

- (a) any business or profession,
- (b) so far as not within paragraph (a), the carrying on of research and development activities from which it is intended a trade will be derived or will benefit, and
- (c) preparing to carry on a trade.”

(6) In the heading, for “capital schemes” substitute “ finance investments ”.

8 After section 173A insert—

**“173AA Maximum risk finance investments at the issue date requirement**

(1) The total amount of relevant investments made in the issuing company on or before the issue date must not exceed—

- (a) if the issuing company is a knowledge-intensive company at the issue date (see section 252A), £20 million, and
- (b) in any other case, £12 million.

(2) In subsection (1) the reference to relevant investments made in the issuing company includes—

- (a) any relevant investment made in any company that at the issue date is, or has at any time before that date been, a 51% subsidiary of the issuing company (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not investments made in it after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time before the issue date been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at that date, ignoring any money so employed after it last ceased to be such a subsidiary), and

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- (c) any other relevant investment made in a company if—
- (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
  - (ii) after the investment was made, but on or before the issue date, that trade became a relevant transferred trade (see subsection (4)).
- (3) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.
- (4) Where—
- (a) at any time on or before the issue date, a trade is transferred—
    - (i) to the issuing company,
    - (ii) to a company that at the issue date is, or has at any time before that date been, a 51% subsidiary of the issuing company, or
    - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,
 (including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary but, if the company is not such a subsidiary at the issue date, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and
  - (b) the trade or a part of it was previously (at any time) carried on by another person,
- the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).
- (5) In this section—
- “the issue date” means the date on which the relevant shares are issued;
- “relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;
- and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.

### **173AB Maximum risk finance investments during period B requirement**

- (1) The requirement of this section applies if condition A or B is met.
- (2) Condition A is that—
- (a) a company becomes a 51% subsidiary of the issuing company at any time during period B,
  - (b) all or part of the money raised by the issue of the relevant shares is employed for the purposes of a qualifying business activity which consists wholly or in part of a trade carried on by that company, and

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- (c) that trade (or a part of it) was carried on by that company before it became a 51% subsidiary as mentioned in paragraph (a).
- (3) Condition B is that all or part of the money raised by the issue of the relevant shares is employed for the purposes of a qualifying business activity which consists wholly or in part of a trade which, during period B, becomes a relevant transferred trade.
- (4) The requirement of this section is that, at all times in period B, the total of the relevant investments made in the issuing company before the time in question (“the relevant time”) must not exceed—
  - (a) if the issuing company is a knowledge-intensive company at the issue date (see section 252A), £20 million, and
  - (b) in any other case, £12 million.
- (5) In subsection (4) the reference to relevant investments made in the issuing company includes—
  - (a) any relevant investment made in any company that at any time before the relevant time has been a 51% subsidiary of the issuing company (including investments made in a company before it became such a subsidiary but, if it is not such a subsidiary at the relevant time, not investments made in it after it last ceased to be such a subsidiary),
  - (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time before the relevant time been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at the relevant time, ignoring any money so employed after it last ceased to be such a subsidiary), and
  - (c) any other relevant investments made in a company where—
    - (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
    - (ii) after the investment was made, but before the relevant time, that trade (or a part of it) becomes a relevant transferred trade (see subsection (7)).
- (6) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which became a relevant transferred trade, the reference in subsection (5)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.
- (7) Where—
  - (a) before the relevant time, a trade is transferred—
    - (i) to the issuing company,
    - (ii) to a company that is at the relevant time, or has before that time been, a 51% subsidiary of the issuing company, or
    - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,(including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a

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member, before the company became such a subsidiary but, if the company is not such a subsidiary at the relevant time, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and

- (b) the trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).

- (8) In this section—

“the issue date” means the date on which the relevant shares are issued, and

“relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;

and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.”

- 9 Omit section 173B (the spending of money raised by SEIS investment requirement).

- 10 (1) Section 174 (the purpose of the issue requirement) is amended as follows.

- (2) The existing text becomes subsection (1).

- (3) In that subsection, after “activity” insert “so as to promote business growth and development”.

- (4) After that subsection insert—

“(2) For this purpose “business growth and development” means the growth and development of—

- (a) if the issuing company is a single company, the business of that company, and  
(b) if the issuing company is a parent company, what would be the business of the group if the activities of the group companies taken together were regarded as one business.”

- 11 (1) Section 175 (the use of money raised requirement) is amended as follows.

- (2) For subsection (1A) substitute—

“(1ZA) Employing money raised by the issue of the relevant shares (whether on its own or together with other money) on the acquisition, directly or indirectly, of—

- (a) an interest in another company such that a company becomes a 51% subsidiary of the issuing company,  
(b) a further interest in a company which is a 51% subsidiary of the issuing company,  
(c) a trade,  
(d) intangible assets employed for the purposes of a trade, or  
(e) goodwill employed for the purposes of a trade,

does not amount to employing that money for the purposes of a qualifying business activity.

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(1ZB) The Treasury may by regulations provide that subsection (1ZA) does not apply in relation to acquisitions of intangible assets which are of a description specified, or which occur in circumstances specified, in the regulations.

(1ZC) For the purposes of subsections (1ZA) and (1ZB)—

“goodwill” has the same meaning as in Part 8 of CTA 2009 (see section 715(3));

“intangible assets” means any asset which falls to be treated as an intangible asset in accordance with generally accepted accountancy practice;

and section 173A(6) and (7) (meaning of “trade” etc) applies as it applies for the purposes of section 173A.

(1A) Also, otherwise employing money on the acquisition of shares or stock in a company does not of itself amount to employing the money for the purposes of a qualifying business activity.”

12 After section 175 insert—

**“175A The permitted maximum age requirement**

(1) The requirement of this section is that, if the relevant shares are issued after the initial investing period, condition A, B or C must be met.

(2) “The initial investing period” means—

- (a) where the issuing company is a knowledge-intensive company at the issue date, the period of 10 years beginning with the relevant first commercial sale, and
- (b) in any other case, the period of 7 years beginning with that sale.

(3) Condition A is that—

- (a) a relevant investment was made in the issuing company before the end of the initial investing period, and
- (b) some or all of the money raised by that investment was employed for the purposes of the relevant qualifying business activity (or a part of it).

(4) Condition B is that—

- (a) the total amount of relevant investments made in the issuing company in a period of 30 consecutive days which includes the issue date is at least 50% of the average turnover amount, and
- (b) the money raised by those investments is employed for the purpose of entering a new product or geographical market.

(5) Condition C is that—

- (a) condition B in subsection (4) or condition B in section 294A(4) (VCT: permitted company age requirement) was previously met in relation to one or more relevant investments made in the issuing company, and
- (b) some or all of the money raised by those investments was employed for the purposes of the relevant qualifying business activity.

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- (6) “The relevant first commercial sale” means the earliest of the following—
- (a) the first commercial sale made by the issuing company;
  - (b) the first commercial sale made by a company that is at the issue date, or before that date has been, a 51% subsidiary of the issuing company (including a sale made by a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not a sale made after it last ceased to be such a subsidiary);
  - (c) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on, on or before the issue date, by—
    - (i) the issuing company, or
    - (ii) a company that is at the issue date, or before that date has been, a 51% subsidiary of the issuing company,
 

(including a trade subsequently carried on by such a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not a trade which it carried on only after it last ceased to be such a subsidiary);
  - (d) the first commercial sale made by a company which becomes a 51% subsidiary of the issuing company after the issue date in circumstances where all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by that subsidiary (including a sale made by such a company before it became such a subsidiary);
  - (e) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on by a company mentioned in paragraph (d) (including a trade carried on by such a company before it became such a subsidiary);
  - (f) if the money raised by the issue of the relevant shares (or any part of it) is employed for the purposes of a trade which has been transferred, after the issue date, to the issuing company or a 51% subsidiary of that company (or a partnership of which the issuing company or such a subsidiary is a member), having previously (at any time) been carried on by another person, the first commercial sale made by that other person.
- (7) “The average turnover amount” means one fifth of the total relevant turnover amount for the five year period which ends—
- (a) immediately before the beginning of the last accounts filing period, or
  - (b) if later, 12 months before the issue date.
- (8) In this section—
- “entering a new product or geographical market” has the same meaning as in [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation);
- “first commercial sale” has the same meaning as in the European Commission's Guidelines on State aid to promote risk finance investments (as those guidelines may be amended or replaced from time to time);

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“the issue date” means the date on which the relevant shares are issued;

“the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the issuing company which ends before the date on which the relevant shares are issued;

“relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;

“relevant qualifying business activity” means the qualifying business activity for which the money raised by the issue of the relevant shares is employed;

“the total relevant turnover amount” for a period is—

- (a) if the issuing company is a single company at the issue date, the sum of—
  - (i) the issuing company's turnover for that period,
  - (ii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the issuing company after the issue date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) and (ii));
- (b) if the issuing company is a parent company at the issue date, the sum of—
  - (i) the issuing company's turnover for that period,
  - (ii) the turnover for that period of each company which at the issue date is a qualifying subsidiary of the issuing company,
  - (iii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the issuing company after the issue date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iv) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) to (iii));

“transferred trade” means a trade which has been transferred to the company which is carrying on the trade at the time the

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money raised by the issue of the relevant shares is employed or to a partnership of which that company is a member;

“turnover” —

- (a) in relation to a company, has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to the accounts of companies and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a company's turnover for a period);
- (b) in relation to any other person carrying on a trade, also has the meaning given by section 474(1) of that Act (reading references in that provision to a company as references to the person) and is to be determined by reference to the accounts of the person and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a person's turnover for a period);
- (c) in relation to a transferred trade carried on by a company or other person, means such proportion of the turnover of the company or other person as it is just and reasonable to attribute to the transferred trade;

and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.”

*The issuing company*

- 13 In section 186A (the number of employees requirement)—
- (a) in subsections (1) and (2) for “250” substitute “ the permitted limit ”, and
  - (b) after subsection (3) insert—
    - “(3A) The permitted limit” means—
      - (a) if the issuing company is a knowledge-intensive company (see section 252A) at the time the relevant shares are issued, 500, and
      - (b) in any other case, 250.
    - (3B) The Treasury may by regulations amend subsection (3A)(a) or (b) by substituting a different number for the number for the time being specified there.”
- 14 Omit section 200 (power to amend certain provisions of Chapter 4 of Part 5 of ITA 2007 by Treasury order).

*Repayment etc of share capital*

- 15 (1) Section 224 (repayments etc of share capital to other persons) is amended as follows.
- (2) In subsection (4), after paragraph (a) insert—
- “(aa) causes any SEIS relief attributable to that person's shares in the issuing company to be withdrawn or reduced by virtue of—
    - (i) section 257FA (disposal of shares), or



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(ii) section 257FH(2)(a) (receipt of value by virtue of repayment of share capital etc),”.

(3) In subsection (5)—

- (a) after “subsection (4)(a),” insert “ (aa), ” and
- (b) after paragraph (a) insert—  
“(aa) section 257FE,”.

*Information to be provided by issuing company etc*

16 In section 241 (information to be provided by the issuing company etc), in subsection (1), before paragraph (a) insert—

- “(za) a requirement of any of the following provisions is not met in respect of the shares included in the issue, or would not be met if EIS relief had been obtained in respect of those shares—
- (i) section 173A (the maximum amount raised annually through risk finance investments),
  - (ii) section 173AA (the maximum amount raised through risk finance investments at the issue date),
  - (iii) section 173AB (the maximum amount raised through finance investments during period B),
  - (iv) section 175A (the permitted maximum age requirement),”.

*Acquisition of issuing company*

17 In section 247 (continuing of EIS relief where issuing company is acquired by new company), after subsection (3) insert—

- “(3A) In section 173AB(2)(a) and in the definition of “the total relevant turnover amount” in section 175A(8), references to a company becoming a 51% subsidiary of the issuing company after the issue date do not include a company becoming such a subsidiary as a result of an exchange of shares as mentioned in subsection (1).”

*Powers to amend Part 5 of ITA 2007*

18 After section 251 insert—

*“Powers to amend*

**251A Powers to amend Chapters 2 to 4 by Treasury regulations**

- (1) The Treasury may by regulations add to, repeal or otherwise amend any provision of—
  - (a) Chapter 2 (the requirements to be met in relation to the investor),
  - (b) Chapter 3 (the general requirements to be met in respect of the relevant shares), or
  - (c) Chapter 4 (the requirements to be met by the issuing company for it to be a qualifying company in relation to the relevant shares).
- (2) Regulations under this section may—

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- (a) make different provision for different cases or purposes;
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) The provision which may be made as a result of subsection (2)(b) includes provision amending any provision of this or any other Act (including an Act passed after this Act).
- (4) Regulations under this section may, so long as they do not increase any person's liability to any tax, be made to have retrospective effect in relation to any time in the tax year in which they are made or the previous tax year.
- (5) This section is without prejudice to any other power to amend any provision of this Part.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

*“Knowledge-intensive companies”*

19 After section 252 insert—

**“252A Meaning of “knowledge-intensive company”**

- (1) For the purposes of this Part, the issuing company is a “knowledge-intensive company” at the time the relevant shares are issued if the company meets—
- (a) one or both of the operating costs conditions (see subsections (2) and (3)), and
  - (b) one or both of—
    - (i) the innovation condition (see subsection (5)), and
    - (ii) the skilled employee condition (see subsection (8)).
- (2) The first operating costs condition is that in at least one of the relevant three preceding years at least 15% of the relevant operating costs constituted expenditure on research and development or innovation.
- (3) The second operating costs condition is that in each of the relevant three preceding years at least 10% of the relevant operating costs constituted such expenditure.
- (4) In subsections (2) and (3)—
- “relevant operating costs” means—
- (a) if the issuing company is a single company at the time the relevant shares are issued, the operating costs of that company, and
  - (b) if the issuing company is a parent company at the time the relevant shares are issued, the sum of—
    - (i) the operating costs of the issuing company, and
    - (ii) the operating costs of each company which is a qualifying subsidiary of the issuing company at that time;

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“the relevant three preceding years” means the three consecutive years the last of which ends—

- (a) immediately before the beginning of the last accounts filing period, or
- (b) if later, 12 months before the date on which the relevant shares are issued.

(5) “The innovation condition” is—

- (a) where the issuing company is a single company, that—
  - (i) the issuing company is engaged in intellectual property creation at the time the relevant shares are issued, and
  - (ii) it is reasonable to assume that, within 10 years of the issue of the relevant shares, one or a combination of—
    - (a) the exploitation of relevant intellectual property held by the company, and
    - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the company,will form the greater part of its business;
- (b) where the issuing company is a parent company, that—
  - (i) the parent company or one or more of its qualifying subsidiaries (or both that company and one or more of those subsidiaries) is or are engaged in intellectual property creation at the time the relevant shares are issued, and
  - (ii) it is reasonable to assume that, within 10 years of the issue of the relevant shares, one or a combination of—
    - (a) the exploitation of relevant intellectual property held by the parent company or any of its qualifying subsidiaries, and
    - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the parent company or any of its qualifying subsidiaries,will form the greater part of what would be the business of the group if the activities of the group companies taken together are regarded as one business.

(6) For the purposes of subsection (5), a company is engaged in intellectual property creation if—

- (a) relevant intellectual property is being created by the company, or has been created by it within the previous three years,
- (b) the company is taking, or preparing to take, steps in order that relevant intellectual property will be created by it, or
- (c) the company is carrying on activity which is the subject of a written evaluation which—
  - (i) has been prepared by an independent expert, and
  - (ii) includes a statement to the effect that, in the opinion of the expert, it is reasonable to assume that relevant intellectual property will, in the foreseeable future, be created by the company.

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- (7) For the purposes of this section—
- (a) intellectual property is “relevant” intellectual property, in relation to a company, if the whole or greater part (in terms of value) of it is created by the company, and
  - (b) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (8) “The skilled employee condition” is that throughout period B—
- (a) if the issuing company is a single company, the FTE skilled employee number is at least 20% of the FTE employee number, and
  - (b) if the issuing company is a parent company, the FTE group skilled employee number is at least 20% of the FTE group employee number.
- (9) But, in subsection (8), the reference to period B does not include any period during which the issuing company, by virtue of section 182 (companies in administration or receivership), is not regarded as having ceased to meet the trading requirement.
- (10) In this section—
- “FTE employee number” for a company is the full-time equivalent employee number determined in accordance with section 186A(3);
- “FTE group employee number” means the sum of—
- (a) the FTE employee number for the issuing company, and
  - (b) the FTE employee number for each of its qualifying subsidiaries;
- “FTE group skilled employee number” means the sum of—
- (a) the FTE skilled employee number for the issuing company, and
  - (b) the FTE skilled employee number for each of its qualifying subsidiaries;
- “FTE skilled employee number” for a company is determined in accordance with section 186A(3) in the same way as the full-time equivalent employee number except that only employees of the company who—
- (a) hold a relevant HE qualification, and
  - (b) are engaged directly in research and development or innovation activities carried on—
    - (i) if the issuing company is a single company, by that company, or
    - (ii) if the issuing company is a parent company, by that company or any qualifying subsidiary of that company,
- are to be taken into account;
- “independent expert”, in relation to an evaluation of activity of a company, means an individual who—
- (a) is not connected with the issuing company,
  - (b) holds a relevant HE qualification, and

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- (c) is an expert in the area of research and development or innovation being or to be pursued by the company in question; “intellectual property” has the meaning given by section 195(6); “the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the issuing company which ends before the date on which the relevant shares were issued; “operating costs”, of a company for a period of account, means expenses of the company which are recognised as expenses in the company's profit and loss account or income statement for that period, other than expenses relating to transactions between that company and another company at a time when both companies are members of the same group (but see also subsection (11)); “relevant HE qualification” means—
- (a) a qualification which is at level 7, or a higher level, of the framework for higher education qualifications in England, Wales and Northern Ireland (as that framework may be amended or replaced from time to time),
  - (b) a qualification which is at level 11, or a higher level, of the framework for qualifications of higher education institutions in Scotland (as that framework may be amended or replaced from time to time), or
  - (c) a comparable qualification to one within paragraph (a) or (b).
- (11) Such apportionments as are just and reasonable are to be made to amounts recognised in a company's profit and loss account or income statement for the purpose of determining the company's operating costs for a year.
- (12) When determining whether an individual is connected with the issuing company for the purposes of this section, section 168 is to be ignored.
- (13) The Treasury may by regulations amend this section for the purposes of adding, amending or removing a condition which must be met for a company to be a knowledge-intensive company.
- (14) A statutory instrument containing regulations under subsection (13) may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

#### *Consequential repeals*

- 20 (1) In consequence of paragraphs 6(c) and 9, in Schedule 6 to FA 2012, omit paragraphs 11 and 13.
- (2) In consequence of paragraph 13, in Schedule 7 to FA 2012, omit paragraph 12.
- (3) In consequence of paragraph 14, in Schedule 7 to FA 2012, omit paragraph 16.

#### *Commencement and transitional provision*

- 21 The amendments made by paragraphs 6(c), 9 and 20(1) have effect in relation to shares issued on or after 6 April 2015.

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- 22 The amendments made by paragraph 15 have effect in relation to any repayment, redemption or repurchase of share capital, or payment to a member, on or after 6 April 2014.
- 23 (1) The amendments made by paragraphs 3 to 5, 6 (other than paragraph (c)), 7, 8, 10 to 12, 13, 16, 17 and 20(2) and (3) have effect in relation to shares issued on or after the day on which this Act is passed.
- (2) But nothing in sub-paragraph (1) prevents shares issued before that day constituting “relevant investments” for the purposes of determining whether the requirements of sections 173A, 173AA, 173AB and 175A are met in relation to shares issued on or after that day.

## SCHEDULE 6

Section 26

### VENTURE CAPITAL TRUSTS

#### *Introductory*

- 1 Part 6 of ITA 2007 (venture capital trusts) is amended as follows.

#### *Limiting eligibility for relief to investments made before 2025*

- 2 (1) Section 261 (eligibility for VCT relief) is amended as follows.
- (2) In subsection (3), before paragraph (a) insert—  
“(za) the shares are issued before 6 April 2025.”
- (3) After subsection (4) insert—  
“(5) The Treasury may, by regulations, amend subsection (3)(za) to substitute a different date for the date for the time being specified there.”

#### *Requirements for the giving of VCT approval*

- 3 (1) Section 274 (requirements for the giving of approval) is amended as follows.
- (2) In the table in subsection (2), at the end insert—

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“The permitted maximum age condition	The company has not made and will not make an investment, in the relevant period, in a company which breaches the permitted maximum age limit.
The no business acquisition condition	The company has not made and will not make an investment, in the relevant period, in a company which breaches the prohibition on business acquisitions.”

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- (3) In subsection (3)—
- (a) omit the “and” at the end of paragraph (e),
- (b) in paragraph (f), after “by” insert “ subsection (3A) and by ”, and
- (c) after that paragraph insert—

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- “(g) the permitted maximum age condition by subsection (3A) and by section 280C, and
- (h) the no business acquisition condition by subsection (3A) and by section 280D.”

(4) After that subsection insert—

“(3A) In the second column of the table in subsection (2), in the entries for the investment limits condition, the permitted maximum age condition and the no business acquisition condition, any reference to an investment made by the company (“the investor”) in a company does not include any of the following investments—

- (a) shares or units in an AIF (within the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013) which may be repurchased or redeemed on 7 days' notice given by the investor;
- (b) shares or units in a UCITS (within the meaning given by section 363A(4) of TIOPA 2010) which may be repurchased or redeemed on 7 days' notice given by the investor;
- (c) ordinary shares or securities in a company which are acquired by the company on a regulated market.”

(5) For subsection (5) substitute—

“(5) The Treasury may by regulations—

- (a) amend the first entry in the table in subsection (2) (the listing condition),
- (b) add, remove or amend an entry in the list of investments in subsection (3A),
- (c) amend this section so as to make provision to restrict the period for which an investment made by the company is excluded by subsection (3A), or
- (d) amend subsection (4).”

#### *VCT approvals*

4 (1) Section 280B (the investment limits condition) is amended as follows.

(2) In subsection (2) for the words from “if” to the end substitute “if one or more of the following applies—

- (a) the total annual investment in the relevant company exceeds the amount for the time being specified in section 292A(1);
- (b) the total investment in the relevant company at the investment date exceeds the amount specified in—
  - (i) if the relevant company is a knowledge-intensive company (see section 331A) at the investment date, section 292AA(1)(a), and
  - (ii) in any other case, section 292AA(1)(b);
- (c) condition A or B is met and the total investment in the relevant company at any time during the 5-year post-investment period exceeds the amount specified in—

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- (i) if the relevant company is a knowledge-intensive company at the investment date, section 292AB(4)(a), and
- (ii) in any other case, section 292AB(4)(b).”

(3) After subsection (2) insert—

“(2A) In this section—

“the investment date” means the date the current investment is made;

“the 5-year post-investment period” means the period of 5 years beginning with the day after the investment date.”

(4) For subsection (3) substitute—

“(3) For the purposes of subsection (2)(a), the total annual investment in the relevant company is the sum of—

- (a) the amount of the current investment,
- (b) the total amount of other relevant investments made (whether or not by the investor), in the year ending with the day on which the current investment is made, in—
  - (i) the relevant company, or
  - (ii) a company that has at any time in that year been a 51% subsidiary of the relevant company,
 (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the end of that year, not investments made in it after it last ceased to be such a subsidiary), and
- (c) the total amount of any other relevant investments (whether or not made by the investor) which are relevant imported investments.

(3A) For the purposes of subsection (2)(b), the total investment in the relevant company at the investment date is the sum of—

- (a) the amount of the current investment,
- (b) the total amount of other relevant investments made (whether or not by the investor), on or before the investment date, in—
  - (i) the relevant company, or
  - (ii) a company that is at the investment date, or has at any time before that date been, a 51% subsidiary of the relevant company,
 (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the investment date, not investments made in it after it last ceased to be such a subsidiary), and
- (c) the total amount of any other relevant investments (whether or not made by the investor) which are relevant imported investments.

(3B) For the purposes of subsection (2)(c)—

- (a) condition A is that—
  - (i) a company becomes a 51% subsidiary of the relevant company during the 5-year post-investment period,



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- (ii) all or part of the money raised by the current investment is employed for the purposes of an activity which consists wholly or in part of a trade carried on by that company, and
    - (iii) that trade (or a part of it) was carried on by that company before it became a 51% subsidiary as mentioned in subparagraph (i);
  - (b) condition B is that all or part of the money raised by the current investment is employed for the purposes of an activity which consists wholly or in part of a trade which, during the 5-year post-investment period, becomes a relevant transferred trade (see subsection (3F)).
- (3C) For the purposes of subsection (2)(c), the total investment in the relevant company at a time during the 5-year post-investment period (“the relevant time”) is the sum of—
  - (a) the amount of the current investment,
  - (b) the total amount of other relevant investments made, before the relevant time (whether or not by the investor), in—
    - (i) the relevant company, or
    - (ii) a company that at the relevant time is, or before that time has been, a 51% subsidiary of the relevant company,(including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the relevant time, not investments made in it after it last ceased to be such a subsidiary), and
  - (c) the total amount of any other relevant investments (whether or not made by the investor) which are relevant imported investments.
- (3D) In this section “relevant imported investment” means—
  - (a) a relevant investment
    - (i) which is made in a company at a qualifying time, and
    - (ii) the money raised by which is employed for the purposes of a trade carried on by another company that is, at a qualifying time, a 51% subsidiary of the relevant company (but, if at the latest possible qualifying time it has ceased to be such a subsidiary, ignoring any money so employed after it last ceased to be such a subsidiary), or
  - (b) a relevant investment—
    - (i) which is made in a company at a qualifying time, and
    - (ii) the money raised by which is employed for the purposes of a trade carried on by that company or another person,where, at a qualifying time but after that investment was made, that trade (or a part of it) became a relevant transferred trade (see subsection (3F)).
- (3E) In subsection (3D) “a qualifying time” means—
  - (a) for the purposes of subsection (3), any time in the year mentioned in that subsection,
  - (b) for the purposes of subsection (3A), any time on or before the investment date,

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- (c) for the purposes of subsection (3C), any time before the relevant time.
- (3F) For the purposes of this section if—
- (a) a trade is transferred—
    - (i) to the relevant company,
    - (ii) to a company that is a 51% subsidiary of the relevant company, or
    - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,

(including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary), and
  - (b) the trade, or a part of it, was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).”
- (5) In subsection (4)—
- (a) omit “or” at the end of paragraph (b) and after that paragraph insert—
    - “(ba) an investment is made in the company and (at any time) the company provides a compliance statement under section 257PB (tax relief for social investments) in respect of the investment, or”, and
  - (b) in paragraph (c) for “Community Guidelines on Risk Capital Investments in Small and Medium-sized Enterprises” substitute “European Commission’s Guidelines on State aid to promote risk finance investment”.
- (6) In subsection (5) for “and (3)” substitute “to (3E)”.
- (7) After subsection (5) insert—
- “(6) Section 257KB applies in determining for those purposes when an investment within subsection (4)(ba) is made as it applies for the purposes of Part 5B (tax relief on social investments).
- (7) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which became a relevant transferred trade as mentioned in subsection (3D), only the corresponding proportion of the relevant investment falls within that subsection.
- (8) For the purposes of this section—
- (a) references to a trade include a part of a trade (and references to the carrying on of a trade are to be construed accordingly), and
  - (b) when determining the amount of money raised by a relevant investment which has been employed for the purposes of a trade such apportionments are to be made as are just and reasonable.
- (9) In this section “trade” includes—
- (a) any business or profession,
  - (b) so far as not within paragraph (a), the carrying on of research and development activities from which it is intended a trade will be derived or will benefit, and

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(c) preparing to carry on a trade.”

*The first commercial sale condition and the no business acquisition condition*

5 After section 280B insert—

**“280C The permitted maximum age condition**

- (1) This section applies for the purposes of the permitted maximum age condition.
- (2) Where a company makes an investment in another company (“the relevant company”), that investment (“the current investment”) breaches the permitted maximum age limits if—
  - (a) the investment is made after the initial investing period, and
  - (b) none of conditions A to C is met.
- (3) “The initial investing period” means—
  - (a) where the relevant company is a knowledge-intensive company on the investment date, the period of 10 years beginning with the relevant first commercial sale, and
  - (b) in any other case, the period of 7 years beginning with that sale.
- (4) Condition A is that—
  - (a) a relevant investment was made in the relevant company before the end of the initial investing period, and
  - (b) some or all of the money raised by that investment was employed for the purposes of the same activities as the money raised by the current investment (or some of those activities).
- (5) Condition B is that—
  - (a) the sum of—
    - (i) the amount of the current investment, and
    - (ii) the total amount of any other relevant investments made in the relevant company in a period of 30 consecutive days which includes the investment date,is at least 50% of the average turnover amount, and
  - (b) the money raised by the current investment and the investments mentioned in paragraph (a)(ii) is employed for the purpose of entering a new product or geographical market.
- (6) Condition C is that—
  - (a) condition B in subsection (5) or condition B in section 175A(4) (EIS: permitted company age requirement) was previously met in relation to one or more relevant investments made in the relevant company, and
  - (b) some or all of the money raised by those investments was employed for the purposes of the same activities as the money raised by the current investment.
- (7) “The relevant first commercial sale” means the earliest of the following—
  - (a) the first commercial sale made by the relevant company,

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- (b) the first commercial sale made by a company that is at the investment date, or before that date has been, a 51% subsidiary of the relevant company (including a sale made by a company before it became such a subsidiary but, if it is not such a subsidiary at the investment date, not a sale made after it last ceased to be such a subsidiary),
  - (c) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on, on or before the investment date, by—
    - (i) the relevant company, or
    - (ii) a company that is at the investment date, or before that date has been, a 51% subsidiary of the relevant company, (including a trade subsequently carried on by such a company before it became such a subsidiary but, if it is not such a subsidiary at the investment date, not a trade which it carried on only after it last ceased to be such a subsidiary);
  - (d) the first commercial sale made by a company which becomes a 51% subsidiary of the relevant company after the investment date in circumstances where all or part of the money raised by the current investment is employed for the purposes of an activity carried on by that subsidiary (including a sale made by such a company before it became such a subsidiary);
  - (e) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on by a company mentioned in paragraph (d) (including a trade carried on by such a company before it became such a subsidiary);
  - (f) if the money raised by the current investment or any part of it is employed for the purposes of a trade which has been transferred after the investment date to the relevant company or a 51% subsidiary of that company (or to a partnership of which the relevant company or such a subsidiary is a member), having previously been carried on (at any time) by another person, the first commercial sale made by that other person.
- (8) “The average turnover amount” means one fifth of the total relevant turnover amount for the five year period which ends—
- (a) immediately before the beginning of the last accounts filing period, or
  - (b) if later, 12 months before the investment date.
- (9) In this section—
- “entering a new product or geographical market” has the same meaning as in [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation);
  - “first commercial sale” has the same meaning as in the European Commission's Guidelines on State aid to promote risk finance investments (as those guidelines may be amended or replaced from time to time);
  - “the investment date” means the day on which the current investment is made;

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“the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the relevant company which ends before the date on which the current investment is made;

“relevant investment” has the meaning given by section 280B(4) (and section 280B(5) and (6) apply for the purposes of this section as they apply for section 280B(2) to (3E));

“the total relevant turnover amount” for a period is—

- (a) if the relevant company is a single company at the investment date, the sum of—
  - (i) the relevant company's turnover for that period,
  - (ii) if all or part of the money raised by the current investment is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the relevant company after the investment date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iii) if all or part of the money raised by the current investment is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) and (ii));
- (b) if the relevant company is a parent company at the investment date, the sum of—
  - (i) the relevant company's turnover for that period,
  - (ii) the turnover for that period of each company which at the investment date is a 51% subsidiary of the relevant company,
  - (iii) if all or part of the money raised by the issue of the current investment is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the relevant company after the investment date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iv) if all or part of the money raised by the current investment is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) to (iii));

“transferred trade” means a trade which has been transferred to the company which is carrying on the trade at the time the money raised by the current investment is employed or to a partnership of which that company is a member;

“turnover”—

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- (a) in relation to a company, has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to the accounts of companies and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a company's turnover for a period);
- (b) in relation to any other person carrying on a trade, also has the meaning given by section 474(1) of that Act (reading references in that provision to a company as references to the person) and is to be determined by reference to the accounts of the person and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a person's turnover for a period);
- (c) in relation to a transferred trade carried on by a company or other person, means such proportion of the turnover of the company or other person as it is just and reasonable to attribute to the transferred trade;

and section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.

#### **280D The no business acquisition condition**

- (1) This section applies for the purposes of the no business acquisition condition.
- (2) Where a company makes an investment in another company (“the relevant company”), that investment breaches the prohibition on business acquisitions if any of the money raised by it is employed (whether on its own or together with other money) on the acquisition, directly or indirectly, of—
  - (a) an interest in another company such that a company becomes a 51% subsidiary of the relevant company,
  - (b) a further interest in a company which is a 51% subsidiary of the relevant company,
  - (c) a trade,
  - (d) intangible assets employed for the purposes of a trade, or
  - (e) goodwill employed for the purposes of a trade.
- (3) The Treasury may by regulations provide that subsection (2) does not apply in relation to acquisitions of intangible assets which are of a description specified, or which occur in circumstances specified, in the regulations.
- (4) In this section—
  - “goodwill” has the same meaning as in Part 8 of CTA 2009 (see section 715(3));
  - “intangible assets” means any asset which falls to be treated as an intangible asset in accordance with generally accepted accountancy practice;

and section 280B(8) and (9) apply for the purposes of this section as they apply for the purposes of section 280B.”

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### *Qualifying holdings*

- 6 (1) Section 286 (qualifying holdings: introduction) is amended as follows.
- (2) In subsection (2), omit the “and” at the end of paragraph (a) and after paragraph (b) insert “, and
- (c) those shares or securities were first issued by the relevant company in order to raise money for the purposes of promoting growth and development of—
- (i) if the relevant company is a single company, the business of that company, and
- (ii) if it is a parent company, what would be the business of the group if the activities of the group companies taken together were regarded as one business.”
- (3) In subsection (3)—
- (a) in paragraph (ea), for “capital schemes” substitute “finance investments”,
- (b) after that paragraph insert—
- “(eaa) the maximum risk finance investments when the relevant holding is issued (see section 292AA),
- (eab) the maximum risk finance investments during the 5-year post-investment period (see section 292AB),”,
- (c) omit paragraph (eb),
- (d) after paragraph (g) insert—
- “(ga) the permitted company age requirement (see section 294A),” and
- (e) after paragraph (ja) insert—
- “(jb) the proportion of skilled employees (see section 297B),”.
- 7 (1) Section 292A (the maximum amount raised annually through risk capital schemes requirement) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) In subsection (1), the reference to relevant investments made in the relevant company includes—
- (a) relevant investments made in any company that has at any time in the year mentioned there been a 51% subsidiary of the relevant company (including investments made in such a company before it became such a subsidiary but, if it was not a subsidiary at the end of that year, not those made after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time in that year been a 51% subsidiary of the relevant company (but, if it is not such a subsidiary at the end of that year, ignoring any money so employed after it last ceased to be such a subsidiary), and
- (c) any other relevant investment made in a company if—
- (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and

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(ii) in that year, after that investment was made, the trade (or a part of it) became a relevant transferred trade (see subsection (2B)).

(2A) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.

(2B) Where—

- (a) in the year mentioned in subsection (1) a trade is transferred—
- (i) to the relevant company,
  - (ii) to a company that is, or has at any time during that year been, a 51% subsidiary of the relevant company, or
  - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,

(including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, at a time in the year before the company became such a subsidiary but not where it is transferred to such a company or partnership in that year after the company last ceased to be such a subsidiary), and

- (b) that trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).”

(3) In subsection (3)—

(a) after paragraph (b) insert—

“(ba) an investment is made in the company and (at any time) the company provides a compliance statement under section 257PB (tax relief for social investments) in respect of the investment, or”, and

(b) in paragraph (c), for “Community Guidelines on Risk Capital Investments in Small and Medium-sized Enterprises” substitute “European Commission’s Guidelines on State aid to promote risk finance investment”.

(4) In subsection (4) for “and (2)” substitute “to (2B)”.

(5) After subsection (4) insert—

“(4A) Section 257KB applies in determining for those purposes when an investment within subsection (3)(ba) is made as it applies for the purposes of Part 5B (tax relief on social investments).”

(6) In subsection (5), after “205” insert “, 257ED or 257PB”.

(7) After subsection (6) insert—

“(7) Section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.”

(8) In the heading, for “capital schemes” substitute “finance investments”.



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### **“292AA Maximum risk finance investments when relevant holding is issued requirement**

- (1) The total amount of relevant investments made in the relevant company on or before the investment date must not exceed—
  - (a) if the relevant company is a knowledge-intensive company at the investment date (see section 331A), £20 million, and
  - (b) in any other case, £12 million.
- (2) In subsection (1), the reference to relevant investments made in the relevant company includes—
  - (a) relevant investments made in any company that is at the investment date, or has at any time before that date been, a 51% subsidiary of the relevant company (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the investment date, not investments made in it after it last ceased to be such a subsidiary),
  - (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time on or before the investment date been a 51% subsidiary of the relevant company (but, if it is not such a subsidiary at the investment date, ignoring any money so employed after it last ceased to be such a subsidiary), and
  - (c) any other relevant investment made in a company if—
    - (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
    - (ii) after the investment was made, but on or before the investment date, that trade became a relevant transferred trade (see subsection (4)).
- (3) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.
- (4) Where—
  - (a) at any time on or before the investment date, a trade is transferred—
    - (i) to the relevant company,
    - (ii) to a company that at the investment date is, or has at any time before that date been, a 51% subsidiary of the relevant company, or
    - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,(including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary but, if the company is not such a subsidiary at the investment date, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and

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- (b) the trade or a part of it was previously (at any time) carried on by another person,  
the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).
- (5) In this section—  
“the investment date” means the date the relevant holding is issued;  
“relevant investment” has the meaning given by section 292A(3), and section 292A(4) and (4A) (which determine when certain investments are made) applies for the purposes of this section;  
and section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.
- (6) Subsection (7) applies if, by virtue of the provision of a compliance statement under section 205, 257ED or 257PB, the requirement of this section is not met.
- (7) The requirement is to be treated as having been met throughout the period—  
(a) beginning with the investment date, and  
(b) ending with the time the compliance statement was provided.

### **292AB Maximum risk finance investments during the 5-year post-investment period requirement**

- (1) The requirement of this section applies if condition A or B is met.
- (2) Condition A is that—  
(a) a company becomes a 51% subsidiary of the relevant company at any time during the 5-year post-investment period,  
(b) all or part of the money raised by the issue of the relevant holding is employed for the purposes of a relevant qualifying activity which consists wholly or in part of a trade carried on by that company, and  
(c) that trade (or a part of it) was carried on by that company before it became a 51% subsidiary as mentioned in paragraph (a).
- (3) Condition B is that all or part of the money raised by the issue of the relevant holding is employed for the purposes of a relevant qualifying activity which consists wholly or in part of a trade which, during the 5-year post-investment period, becomes a relevant transferred trade (see subsection (7)).
- (4) The requirement of this section is that, at all times during the 5-year post-investment period, the total of the relevant investments made in the relevant company before the time in question (“the relevant time”) must not exceed—  
(a) if the relevant company is a knowledge-intensive company at the investment date (see section 331A), £20 million, and  
(b) in any other case, £12 million.
- (5) In subsection (4) the reference to relevant investments made in the relevant company includes—  
(a) any relevant investment made in any company that has at any time before the relevant time been a 51% subsidiary of the relevant company (including investments made in that company before it

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- became such a subsidiary but, if it is not such a subsidiary at the relevant time, not investments made in it after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time before the relevant time been a 51% subsidiary of the relevant company (but, if it is not such a subsidiary at the relevant time, ignoring any money so employed after it last ceased to be such a subsidiary), and
- (c) any other relevant investments made in a company where—
- (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
- (ii) after that investment was made, but before the relevant time, that trade (or a part of it) became a relevant transferred trade (see subsection (7)).
- (6) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which became a relevant transferred trade, the reference in subsection (5)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.
- (7) Where—
- (a) a trade is transferred—
- (i) to the relevant company,
- (ii) to a company that at the relevant time is, or has before that time been, a 51% subsidiary of the relevant company, or
- (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,
- (including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary but, if the company is not such a subsidiary at the relevant time, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and
- (b) the trade or a part of it was previously (at any time) carried on by another person,
- the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).
- (8) In this section—
- “5-year post-investment period” means the period of 5 years beginning with the day after the investment date;
- “the investment date” means the date on which the relevant holding is issued;
- “relevant investment” has the meaning given by section 292A(3), and section 292A(4) and (4A) (which determines when certain investments are made) applies for the purposes of this section;
- and section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.

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- (9) Subsection (10) applies if, by virtue of the provision of a compliance statement under section 205, 257ED or 257PB, the requirement of this section is not met.
- (10) The requirement is to be treated as having been met throughout the period—
- (a) beginning with the investment date, and
  - (b) ending with the time the compliance statement was provided.”
- 9 Omit section 292B (the spending of money raised by SEIS investment requirement).
- 10 In section 293 (the use of the money raised requirement), for subsection (5A) substitute—
- “(5ZA) Employing money raised by the issue of the relevant holding (whether on its own or together with other money) on the acquisition, directly or indirectly, of—
- (a) an interest in another company such that a company becomes a 51% subsidiary of the relevant company,
  - (b) a further interest in a company which is a 51% subsidiary of the relevant company,
  - (c) a trade,
  - (d) intangible assets employed for the purposes of a trade, or
  - (e) goodwill employed for the purposes of a trade,
- does not amount to employing the money for the purposes of a relevant qualifying activity.
- (5ZB) The Treasury may by regulations provide that subsection (5ZA) does not apply in relation to acquisitions of intangible assets which are of a description specified, or which occur in circumstances specified, in the regulations.
- (5ZC) For the purposes of subsections (5ZA) and (5ZB)—
- “goodwill” has the same meaning as in Part 8 of CTA 2009 (see section 715(3));
- “intangible assets” means any asset which falls to be treated as an intangible asset in accordance with generally accepted accountancy practice;
- and section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.
- (5A) Also, otherwise employing money on the acquisition of shares in a company does not of itself amount to employing the money for the purposes of a relevant qualifying activity.”
- 11 After section 294 insert—

**“294A The permitted company age requirement**

- (1) The requirement of this section is that, if the relevant holding is issued after the initial investing period, condition A, B or C must be met.
- (2) “The initial investing period” means—

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- (a) where the relevant company is a knowledge-intensive company at the investment date, the period of 10 years beginning with the relevant first commercial sale, and
  - (b) in any other case, the period of 7 years beginning with that sale.
- (3) Condition A is that—
  - (a) a relevant investment was made in the relevant company before the end of the initial investing period, and
  - (b) some or all of the money raised by that investment was employed for the purposes of the relevant qualifying activity (or a part of it).
- (4) Condition B is that—
  - (a) the total amount of relevant investments made in the relevant company in a period of 30 consecutive days which includes the investment date is at least 50% of the average turnover amount, and
  - (b) the money raised by those investments is employed for the purpose of entering a new product or geographical market.
- (5) Condition C is that—
  - (a) condition B in subsection (4) or condition B in section 175A(4) (EIS: permitted company age requirement) was previously met in relation to one or more relevant investments made in the relevant company, and
  - (b) some or all of the money raised by those investment was employed for the purposes of the relevant qualifying activity.
- (6) “The relevant first commercial sale” means the earliest of the following—
  - (a) the first commercial sale made by the relevant company,
  - (b) the first commercial sale made by a company that is at the investment date, or before that date has been, a 51% subsidiary of the relevant company (including a sale made by a company before it became such a subsidiary but, if it is not such a subsidiary at the investment date, not a sale made after it last ceased to be such a subsidiary),
  - (c) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on, on or before the investment date, by—
    - (i) the relevant company, or
    - (ii) a company that is at the investment date, or before that date has been, a 51% subsidiary of the relevant company,(including a trade subsequently carried on by such a company before it became such a subsidiary but, if it not such a subsidiary at the investment date, not a trade which it carried on only after it last ceased to be such a subsidiary);
  - (d) the first commercial sale made by a company which becomes a 51% subsidiary of the relevant company after the investment date in circumstances where all or part of the money raised by the issue of the relevant holding is employed for the purposes of an activity carried on by that subsidiary (including a sale made by such a company before it became such a subsidiary);

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- (e) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on by a company mentioned in paragraph (d) (including a trade carried on by such a company before it became such a subsidiary);
  - (f) if the money raised by the issue of the relevant holding (or any part of it) is employed for the purposes of a trade which has been transferred after the investment date to the relevant company or a 51% subsidiary of that company (or to a partnership of which the relevant company or such a subsidiary is a member), having previously (at any time) been carried on by another person, the first commercial sale made by that other person.
- (7) “The average turnover amount” means one fifth of the total relevant turnover amount for the five year period which ends—
- (a) immediately before the beginning of the last accounts filing period, or
  - (b) if later, 12 months before the investment date.
- (8) In this section—
- “entering a new product or geographical market” has the same meaning as in [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation);
  - “first commercial sale” has the same meaning as in the European Commission's Guidelines on State aid to promote risk finance investments (as those guidelines may be amended or replaced from time to time);
  - “the investment date” means the date the relevant holding is issued;
  - “the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the relevant company which ends before the date on which the relevant holding is issued;
  - “relevant investment” has the meaning given by section 292A(3), and section 292A(4) and (4A) (which determines when certain investments are made) applies for the purposes of this section;
  - “relevant qualifying activity” means the qualifying activity for which the money raised by the issue of the relevant holding is employed;
  - “the total relevant turnover amount” for a period is—
    - (a) if the relevant company is a single company at the investment date, the sum of—
      - (i) the relevant company's turnover for that period,
      - (ii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the relevant company after the investment date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
      - (iii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of

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- a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) and (ii));
- (b) if the relevant company is a parent company at the investment date, the sum of—
- (i) the relevant company's turnover for that period,
  - (ii) the turnover for that period of each company which at the investment date is a 51% subsidiary of the relevant company,
  - (iii) if all or part of the money raised by the issue of the relevant holding is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the relevant company after the investment date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iv) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) to (iii));

“transferred trade” means a trade which has been transferred to the company which is carrying on the trade at the time the money raised by the issue of the relevant holding is employed or to a partnership of which that company is a member;

“turnover”—

- (a) in relation to a company, has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to the accounts of companies and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a company's turnover for a period);
- (b) in relation to any other person carrying on a trade, also has the meaning given by section 474(1) of that Act (reading references in that provision to a company as references to the person) and is to be determined by reference to the accounts of the person and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a person's turnover for a period);
- (c) in relation to a transferred trade carried on by a company or other person, means such proportion of the turnover of the company or other person as it is just and reasonable to attribute to the transferred trade;

and section 280B(8) and (9) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 280B.”

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- 12 In section 297A (the number of employees requirement)—
- (a) in subsections (1) and (2) for “250” substitute “ the permitted limit ”, and
  - (b) after subsection (3) insert—
    - “(3A) The permitted limit” means—
      - (a) if the relevant company is a knowledge-intensive company at the time the relevant holding is issued (see section 331A), 500, and
      - (b) in any other case, 250.
    - (3B) The Treasury may by regulations amend subsection (3A)(a) or (b) by substituting a different number for the number for the time being specified there.”
- 13 After that section insert—

**“297B The proportion of skilled employees requirement**

- (1) The requirement of this section is that, where the conditions in subsection (2) are met, at all times in the period of 3 years beginning with the issue of the relevant holding—
  - (a) if the relevant company is a single company, the FTE skilled employee number must be at least 20% of the FTE employee number, and
  - (b) if the relevant company is a parent company, the FTE group skilled employee number must be at least 20% of the FTE group employee number.
- (2) The conditions are that—
  - (a) the requirements one or more of sections 292AA, 294A and 297A (the maximum risk finance investments when relevant holding is issued requirement and the number of employees requirement) is or are met only by reason of the relevant company being a knowledge-intensive company at the time the relevant holding was issued, and
  - (b) the innovation condition in section 331A(6) was not met by the relevant company at that time.
- (3) The requirement of this section is not to be regarded as failing to be met at a time when the relevant company, by virtue of section 292 (companies in administration or receivership), is not regarded as having ceased to meet the trading requirement.
- (4) In this section “FTE employee number”, “FTE group employee number”, “FTE skilled employee number” and “FTE group skilled employee number” have the meaning given by section 331A(10) (meaning of “knowledge-intensive company”).”

*Power to amend Chapter 4 of Part 6*

- 14 Omit section 311 (power to amend Chapter 4 of Part 6).



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*Interpretation of Chapter 4 of Part 6*

- 15 In section 313 (interpretation of Chapter 4 of Part 6), in subsection (5), at the end insert—

“But section 993 does not apply for the purposes of the definition of “independent expert” in section 331A(10).”

*Acquisitions for restructuring purposes*

- 16 (1) Section 326 (restructuring to which section 327 applies) is amended as follows.
- (2) In subsection (1), for “Section 327 applies” substitute “ Sections 326A and 327 apply ”.
- (3) In subsection (4) for the words from the beginning to “as being met” substitute “ Nothing in section 326A treats any of the requirements of Chapter 3 as being met, and nothing in section 327 treats any of the requirement of Chapter 4 as being met ”.
- (4) In subsection (5), before “327” insert “ 326A does not treat any requirement of Chapter 3 as being met and section ”.
- 17 After section 326 insert—

**“326A Certain requirements of Chapter 3 to be treated as met**

- (1) If this section applies, subsections (2) to (6) have effect to determine the extent to which, and the time for which, the following conditions in Chapter 3 are met in relation to the old shares and the new shares—
- the investment limits condition (see section 280B);
  - the permitted maximum age condition (see section 280C);
  - the no business acquisition condition (see section 280D).

- (2) If—

- (a) there is an exchange under the arrangements of any new shares for any old shares, and
- (b) those old shares are an investment in relation to which the investment limits condition, the permitted maximum age condition or the no business acquisition condition is (or is treated as being) met to any extent,

those conditions are to be treated as met to the same extent in relation to the matching new shares.

See subsections (3) to (6) for further provision about when those conditions are treated as met in relation to the old shares.

- (3) If—

- (a) the exchange occurs during the period of 5 years beginning with the day after the day on which the old shares were issued, and
- (b) those old shares are shares in relation to which section 280B(2)(c) applies,

section 280B(2)(c) is to be treated as applying in relation to the matching new shares.

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- (4) In determining whether section 280B(2)(c) applies in relation to the old shares—
- (a) condition A is treated as met if it would be met if the reference in section 280B(3B)(a)(i) to a company which becomes a 51% subsidiary of the relevant company during the 5-year post-investment period included a reference to a company which becomes a 51% subsidiary of the new company during that period otherwise than as a result of the exchange, and
  - (b) in relation to investments made or trades transferred at or after the time of the exchange, references to the relevant company in section 280B(3C)(b) and (3F)(a) are to be read as references to the new company.
- (5) The permitted maximum age condition is met in relation to the old shares if (and only if) it would be met if—
- (a) in section 280C(5)(a)(ii) and (6)(a) the references to relevant investments made in the relevant company included a reference to the relevant investments made in the new company,
  - (b) in section 280C(7)(d) and (f) the references to the relevant company included a reference to the new company,
  - (c) in paragraphs (a)(ii) and (b)(iii) of the definition of “the total relevant turnover amount” in section 280C(9) the reference to a company which becomes a 51% subsidiary of the relevant company after the investment date included a reference to a company which becomes a 51% subsidiary of the new company after that date otherwise than as a result of the exchange.
- (6) The no business acquisition condition is met in relation to the old shares if (and only if) it would be met if, in section 280D(2), references to the relevant company were read as including a reference to the new company.”
- 18 (1) Section 327 (certain requirements of Chapter 4 to be treated as met) is amended as follows.
- (2) In subsection (1)—
- (a) after the entry for section 291 insert—
 

“section 292A (the maximum amount raised annually through risk finance investments requirement),

section 292AA (the maximum amount raised through risk finance investments when relevant holding is issued requirement),

section 292AB (the maximum risk finance investments during the 5-year post-investment period requirement),”
  - (b) after the entry for section 294 insert— “ section 294A (the permitted company age requirement),” , and ”
  - (c) omit the “and” at the end of the entry for section 297, and after the entry for section 297A insert “, and

section 297B (the proportion of skilled employees requirement).”
- (3) In subsection (4)—
- (a) after “sections” insert “ 292A, 292AA, 292AB ”,

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- (b) after “294” insert “ , 294A ”, and
- (c) for “and 297A” substitute “ , 297A and 297B ”.

(4) After subsection (4) insert—

“(4A) If—

- (a) there is an exchange under the arrangements of any new shares for any old shares,
- (b) that exchange occurs during the period of 5 years beginning with the day after the day on which the old shares were issued, and
- (c) those old shares are shares in relation to which the requirement of section 292AB (maximum risk finance investments during 5-year post-investment period) applies and is met,

that requirement is to be treated as applying and met in relation to the matching new shares.

(4B) But, where that requirement applies in relation to the old shares, it is met in relation to those shares if (and only if) it would be met were—

- (a) the first reference to the relevant company in section 292AB(4), and
- (b) the references to the relevant company in section 292AB(5) and (7)(a)(i),

read, in relation to times in that 5 year period which fall at or after the time of the exchange, as references to the new company.

(4C) For the purposes of subsections (4A) and (4B), the requirement in section 292AB is treated as applying in relation to the old shares if condition A or B in that section would be met if references in section 292AB(5) and (7)(a)(i) to the relevant company were read as references to the new company.

(4D) The requirement in section 293 (the use of money raised) is met in relation to the old shares if (and only if) it would be met if references to the relevant company in section 293(5ZA) were read as including a reference to the new company.

(4E) The requirement of section 294A (permitted company age) is met in relation to the old shares if (and only if) it would be met if—

- (a) in section 294A(4) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the new company,
- (b) in section 294A(6)(d) and (f) the references to the relevant company included a reference to the new company,
- (c) in paragraphs (a)(ii) and (b)(iii) of the definition of “the total relevant turnover amount” in section 294A(8) the reference to a company which becomes a 51% subsidiary of the relevant company after the investment date included a reference to a company which becomes a 51% subsidiary of the new company after that date otherwise than as a result of the exchange.

(4F) If—

- (a) there is an exchange under the arrangements of any new shares for any old shares,
- (b) that exchange occurs during the period of 3 years beginning with the issue of the old shares, and

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(c) those old shares are shares in relation to which the requirement of section 297B (proportion of skilled employees requirement) is met, that requirement is to be treated as met in relation to the matching new shares.

(4G) The requirement of section 297B is met in relation to the old shares if (and only if) it would be met in relation to those shares were references to the relevant company, in subsections (1) and (3) of that section (and, in the definitions of the terms mentioned in subsection (4) as they apply for the purposes of those subsections), read as references to the new company in relation to times in that 3 year period which fall at or after the exchange.”

*Power to amend Chapters 3 and 4 of Part 6 of ITA 2007*

19 After section 330A insert—

*“Power to amend Part*

**330B Powers to amend Chapters 3 and 4 by Treasury regulations**

- (1) The Treasury may by regulations add to, repeal or otherwise amend any provision of Chapter 3 or 4.
- (2) Regulations under this section may—
  - (a) make different provision for different cases or purposes;
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) The provision which may be made as a result of subsection (2)(b) includes provision amending any provision of this or any other Act (including an Act passed after this Act).
- (4) Regulations under this section may, so long as they do not increase any person's liability to any tax, be made to have retrospective effect in relation to any time in the tax year in which they are made or the previous tax year.
- (5) This section is without prejudice to any other power to amend any provision of this Part.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

*Interpretation of Part 6*

20 After section 331 insert—

**“331A Meaning of “knowledge-intensive company”**

- (1) For the purposes of this Part, the relevant company is a “knowledge-intensive company” at the applicable time if the company meets—
  - (a) one or both of the operating costs conditions (see subsections (3) and (4)), and
  - (b) one or both of—

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- (i) the innovation condition (see subsection (6)), and
  - (ii) the skilled employee condition (see subsection (9)).
- (2) “The applicable time” means—
  - (a) in relation to references to a knowledge-intensive company in section 280B or 280C, the date the current investment (within the meaning of the section in question) is made, and
  - (b) in relation to any other reference to a knowledge-intensive company, the date the relevant holding is issued.
- (3) The first operating costs condition is that in at least one of the relevant three preceding years at least 15% of the relevant operating costs constituted expenditure on research and development or innovation.
- (4) The second operating costs condition is that in each of the relevant three preceding years at least 10% of the relevant operating costs constituted such expenditure.
- (5) In subsections (3) and (4)—
  - “relevant operating costs” means—
    - (a) if the relevant company is a single company at the applicable time, the operating costs of that company, and
    - (b) if the relevant company is a parent company at the applicable time, the sum of—
      - (i) the operating costs of the relevant company, and
      - (ii) the operating costs of each company which is a qualifying subsidiary of the relevant company at that time;
  - “the relevant three preceding years” means the three consecutive years the last of which ends—
    - (a) immediately before the beginning of the last accounts filing period, or
    - (b) if later, 12 months before the applicable time.
- (6) “The innovation condition” is—
  - (a) where the relevant company is a single company, that—
    - (i) the relevant company is engaged in intellectual property creation at the applicable time, and
    - (ii) it is reasonable to assume that, within 10 years of the applicable time, one or a combination of—
      - (a) the exploitation of relevant intellectual property held by the company, and
      - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the company,will form the greater part of its business;
  - (b) where the relevant company is a parent company, that—
    - (i) the parent company or one or more of its qualifying subsidiaries (or both that company and one or more of those subsidiaries) is or are engaged in intellectual property creation at the applicable time, and

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- (ii) it is reasonable to assume that, within 10 years of the applicable time, one or a combination of—
  - (a) the exploitation of relevant intellectual property held by the parent company or any of its qualifying subsidiaries, and
  - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the parent company or any of its qualifying subsidiaries,

will form the greater part of the business of the group, if the activities of the group companies taken together are regarded as one business.
  
- (7) For the purposes of subsection (6), a company is engaged in intellectual property creation if—
  - (a) relevant intellectual property is being created by the company, or has been created by it within the previous three years,
  - (b) the company is taking, or preparing to take, steps in order that relevant intellectual property will be created by it, or
  - (c) the company is carrying on activity which is the subject of a written evaluation which—
    - (i) has been prepared by an independent expert, and
    - (ii) includes a statement to the effect that, in the opinion of the expert, it is reasonable to assume that relevant intellectual property will, in the foreseeable future, be created by the company.
  
- (8) For the purposes of this section—
  - (a) intellectual property is “relevant” intellectual property, in relation to a company, if the whole or greater part (in terms of value) of it is created by the company, and
  - (b) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
  
- (9) “The skilled employee condition” is that at the applicable time—
  - (a) if the relevant company is a single company, the FTE skilled employee number is at least 20% of the FTE employee number, and
  - (b) if the relevant company is a parent company, the FTE group skilled employee number is at least 20% of the FTE group employee number.
  
- (10) In this section—
  - “FTE employee number” for a company is the full-time equivalent employee number determined in accordance with section 297A(3);
  - “FTE group employee number” means the sum of—
    - (a) the FTE employee number for the relevant company, and
    - (b) the FTE employee number for each of its qualifying subsidiaries;
  - “FTE group skilled employee number” means the sum of—

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- (a) the FTE skilled employee number for the relevant company, and
- (b) the FTE skilled employee number for each of its qualifying subsidiaries;

“FTE skilled employee number” for a company is determined in accordance with section 297A(3) in the same way as the full-time equivalent employee number except that only employees of the company who—

- (a) hold a relevant HE qualification, and
- (b) are engaged directly in research and development or innovation activities carried on—
  - (i) if the relevant company is a single company, by that company, or
  - (ii) if the relevant company is a parent company, by that company or any qualifying subsidiary of that company,

are to be taken into account;

“independent expert”, in relation to an evaluation of activity of a company, means an individual who—

- (a) is not connected with the relevant company,
- (b) holds a relevant HE qualification, and
- (c) is an expert in the area of research and development or innovation being or to be pursued by the company in question,

and, for the purposes of paragraph (a), sections 167, 170 and 171 (but not section 168) apply to determine if an individual is connected with the relevant company (with references in those sections to the issuing company read as references to the relevant company);

“intellectual property” has the meaning given by section 306(6);

“the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the relevant company which ends before the applicable time;

“operating costs”, of a company for a period, means expenses of the company which are recognised as expenses in the company's profit and loss account or income statement for that period, other than expenses relating to transactions between that company and another company at a time when both companies are members of the same group (but see also subsection (11));

“relevant HE qualification” means—

- (a) a qualification which is at level 7, or a higher level, of the framework for higher education qualifications in England, Wales and Northern Ireland (as that framework may be amended or replaced from time to time),
- (b) a qualification which is at level 11, or a higher level, of the framework for qualifications of higher education institutions in Scotland (as that framework may be amended or replaced from time to time), or
- (c) a comparable qualification to one within paragraph (a) or (b).

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- (11) Such apportionments as are just and reasonable are to be made to amounts recognised in a company's profit and loss account or income statement for the purpose of determining the company's operating costs for a year.
- (12) The Treasury may by regulations amend this section for the purposes of adding, amending or removing a condition which must be met for a company to be a knowledge-intensive company.
- (13) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

*Repeal of saving for investment of “protected money”*

- 21 Paragraph 21(2) and (3) of Schedule 8 to FA 2012 (which prevents section 293(5A) of ITA 2007 applying in relation to protected money) is repealed.

*Consequential repeal*

- 22 (1) In consequence of paragraphs 6(3)(c) and 9, in Schedule 6 to FA 2012, omit paragraphs 15 and 17
- (2) In consequence of paragraph 12, in Schedule 8 to that Act, omit paragraph 9.
- (3) In consequence of paragraph 19, in Schedule 8 to that Act, omit paragraph 14.

*Application and transitional provision*

- 23 (1) The amendments made by paragraphs 3 to 5 have effect in relation to investments made on or after the day on which this Act is passed.
- (2) The amendments made by paragraphs 6(3)(c), 9 and 22(1) have effect for the purposes of determining whether shares or securities issued on or after 6 April 2015 are to be regarded as comprised in a company's qualifying holdings.
- (3) The amendments made by paragraphs 6 (except sub-paragraph (3)(c)), 7, 8, 10 to 13, 21 and 22(2) and (3) have effect for the purposes of determining whether shares or securities issued on or after the day on which this Act is passed are to be regarded as comprised in a company's qualifying holdings.
- (4) But nothing in sub-paragraphs (1) and (3) prevents investments made before the day on which this Act is passed constituting a “relevant investment”—
- (a) for the purposes of section 280B of ITA 2007 for the purposes of determining whether the investment limits condition in section 274 of that Act is breached by an investment made on or after the day on which this Act is passed,
  - (b) for the purposes of section 280C of that Act for the purposes of determining whether the permitted maximum age condition in section 274 of that Act is breached by an investment made on or after the day on which this Act is passed, or
  - (c) for the purposes of section 292A, 292AA, 292AB or 294A of that Act for the purposes of determining whether shares or securities issued on or after that day are to be regarded as comprised in a company's qualifying holdings.



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## SCHEDULE 7

Section 32

### LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

#### PART 1

##### LOAN RELATIONSHIPS: AMENDMENTS OF PARTS 5 AND 6 OF CTA 2009

- 1 Part 5 of CTA 2009 (loan relationships) is amended as follows.
- 2 In section 306 (overview of Chapter 3 of Part 5), in subsection (2)—
- (a) before paragraph (a) insert—
    - “(za) makes provision about the matters in respect of which amounts are to be brought into account (see section 306A),”
  - (b) in paragraph (c), for “policy” substitute “basis”, and
  - (c) for paragraph (g) substitute—
    - “(g) makes provision about cases where amounts are recognised even though companies are not, or have ceased to be, parties to loan relationships (see section 330A), and”.
- 3 After section 306 insert—

*“Matters in respect of which amounts are to be brought into account*

##### **306A Matters in respect of which amounts to be brought into account**

- (1) The matters in respect of which amounts are to be brought into account for the purposes of this Part in respect of a company's loan relationships are—
    - (a) profits and losses of the company that arise to it from its loan relationships and related transactions (excluding interest or expenses),
    - (b) interest under those relationships, and
    - (c) expenses incurred by the company under or for the purposes of those relationships and transactions.
  - (2) Expenses are only treated as incurred as mentioned in subsection (1)(c) if they are incurred directly—
    - (a) in bringing any of the loan relationships into existence,
    - (b) in entering into or giving effect to any of the related transactions,
    - (c) in making payments under any of those relationships or as a result of any of those transactions, or
    - (d) in taking steps to ensure the receipt of payments under any of those relationships or in accordance with any of those transactions.
  - (3) For the treatment of pre-loan relationship and abortive expenses, see section 329.”
- 4 (1) Section 307 (general principles about the bringing into account of credits and debits) is amended as follows.

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- (2) In subsection (2), after “this Part” insert “ in respect of the matters mentioned in section 306A(1) ”.
- (3) After subsection (2) insert—
- “(2A) Subsections (2B) and (2C) apply if an accounting period of a company does not coincide with one or more of its periods of account.
- (2B) The amounts referred to in subsection (2) are to be determined by apportionment in accordance with section 1172 of CTA 2010 (time basis).
- (2C) But if it appears that apportionment in accordance with that section would work unreasonably or unjustly for an accounting period, subsection (2) is to be read as referring to amounts that would have been recognised in determining the company's profit or loss for that period in accordance with generally accepted accounting practice if accounts had been drawn up for that period.”
- (4) Omit subsections (3) to (5).
- (5) For subsection (6) substitute—
- “(6) This section is subject to the following provisions of this Part.”
- 5 (1) Section 308 (amounts recognised in determining a company's profit or loss) is amended as follows.
- (2) In subsection (1), for the words from “recognised”, in the second place, onwards substitute “ that is recognised in the company's accounts for the period as an item of profit or loss ”.
- (3) After subsection (1) insert—
- “(1A) The reference in subsection (1) to an amount recognised in the company's accounts for the period as an item of profit or loss includes a reference to an amount that—
- (a) was previously recognised as an item of other comprehensive income, and
- (b) is transferred to become an item of profit or loss in determining the company's profit or loss for the period.
- (1B) In subsections (1) and (1A) “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- (4) Omit subsections (2) and (3).
- 6 In section 310 (power to make regulations about recognised amounts)—
- (a) in subsections (1)(a) and (b) and (2), omit “or (2)”, and
- (b) omit subsection (5).
- 7 (1) Section 313 (basis of accounting) is amended as follows.
- (2) In subsection (1), omit the words from “and, in particular,” onwards.
- (3) In subsection (2)—
- (a) omit “sections 307(3) and (4) and”,

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- (b) omit paragraphs (e) and (f),
  - (c) at the end of paragraph (g) insert “ and ”, and
  - (d) omit paragraph (i) and the “and” immediately before it.
- (4) Omit subsection (3).
- (5) In subsection (4), for the words from “shown” onwards substitute “ measured in the company's balance sheet at its amortised cost using the effective interest method, but with that amortised cost being adjusted as necessary where the loan relationship is the hedged item under a designated fair value hedge ”.
- (6) After subsection (4) insert—
- “(4A) In subsection (4) each of the following expressions has the meaning that it has for accounting purposes—
- “amortised cost”, in relation to assets or liabilities;
  - “the effective interest method”, in relation to the measurement of assets or liabilities.”
- (7) For subsection (5) substitute—
- “(5) In this Part “fair value accounting” means a basis of accounting under which—
- (a) assets and liabilities are measured in the company's balance sheet at their fair value, and
  - (b) changes in the fair value of assets and liabilities are recognised as items of profit or loss.”
- (8) For subsection (6) substitute—
- “(6) For the meaning of “fair value”, see section 476(1).
- (7) In this Part each of the following has the meaning that it has for accounting purposes—
- “designated fair value hedge”;
  - “hedged item”.”
- 8 In the italic heading before section 315, for “policy” substitute “ basis ”.
- 9 (1) Section 315 (introduction to sections 316 to 319) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Sections 316 and 318 (adjustments on change of accounting basis) apply if—
- (a) a company changes, from one period of account or accounting period to the next, the basis of accounting on which credits and debits relating to its loan relationships or any of them are calculated for the purposes of this Part,
  - (b) the change of basis—
    - (i) is made in order to comply with a provision made by or under this Part requiring those credits and debits to be determined on a particular basis of accounting, or
    - (ii) results from a change of the company's accounting policy,
  - (c) the change of basis is not made in order to comply with amending legislation not applicable to the previous period,

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- (d) the old basis accorded with the law or practice applicable in relation to the period before the change, and
  - (e) the new basis accords with the law and practice applicable to the period after the change.”
- (3) In subsection (2)—
- (a) for “to 319” substitute “ and 318 ”, and
  - (b) in paragraph (a), for “those periods of account” substitute “ the periods mentioned in subsection (1) ”.
- (4) Omit subsection (3).
- (5) In the heading, for “to 319” substitute “ and 318 ”.
- 10 For section 316 substitute—

**“316 Change of basis of accounting involving change of value**

- (1) If there is a difference between—
    - (a) the tax-adjusted carrying value of an asset or liability at the end of the earlier period, and
    - (b) the tax-adjusted carrying value of that asset or liability at the beginning of the later period,
 a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.
  - (2) This section does not apply so far as the credit or debit falls to be brought into account apart from this section.”
- 11 Omit section 317 (carrying value).
- 12 (1) Section 318 (change of accounting policy following cessation of loan relationship) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute—
    - “(b) section 330A (company is not, or has ceased to be, party to loan relationship) applied to the cessation, and”.
  - (3) For subsections (2) and (3) substitute—
    - “(2) A credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.”
  - (4) In subsection (4), for “Subsections (2) and (3) do” substitute “ Subsection (2) does ”.
  - (5) For subsection (5) substitute—
    - “(5) In this section “the amount outstanding in respect of the loan relationship” means—

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- (a) so much of the recognised deferred income or recognised deferred loss from the loan relationship as has not been represented by credits or debits brought into account under this Part in respect of the relationship, and
- (b) any amounts relating to the matters mentioned in section 306A(1) in respect of the loan relationship that have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and not transferred to become items of profit or loss.”

(6) After subsection (6) insert—

“(7) In determining what amounts fall within subsection (5)(b) at the beginning or end of a period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous periods.

(8) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods which differs from that mentioned in subsection (7), that different assumption applies in determining what amounts fall within subsection (5)(b) at the beginning or end of the period.”

(7) In the heading, for “policy” substitute “basis”.

13 (1) Section 320 (credits and debits treated as relating to capital expenditure) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) This section applies if—

- (a) an amount for an accounting period in respect of a company's loan relationship relates to any of the matters in section 306A(1),
- (b) generally accepted accounting practice allows the amount to be treated in the company's accounts as an amount recognised in determining the carrying value of an asset or liability, and
- (c) any profit or loss for corporation tax purposes in relation to that asset or liability will not fall to be calculated in accordance with generally accepted accounting practice.

(2) Despite that treatment, the amount is to be brought into account as a credit or debit for the purposes of this Part, for the accounting period for which it is recognised, in the same way as an amount which is brought into account as a credit or debit in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.

(3) But subsection (2) does not apply to an amount which relates to an intangible fixed asset to which an election under section 730 (writing down at fixed rate: election for fixed-rate basis) applies.”

(3) Omit subsection (4).

(4) For subsections (5) and (6) substitute—

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- “(5) If an amount relating to an asset or liability is brought into account as mentioned in subsection (2) as a debit, no debit may be brought into account for the purposes of this Part in respect of—
- (a) the writing down of so much of the value of the asset or liability as is attributable to that debit, or
  - (b) so much of any amortisation or depreciation representing a writing-off of that value as is attributable to that debit.”

14 After section 320 insert—

**“320A Amounts recognised in other comprehensive income and not transferred to profit or loss**

- (1) This section applies if—
  - (a) in a period of account an asset or liability representing a loan relationship of a company ceases in accordance with generally accepted accounting practice to be recognised in the company's accounts,
  - (b) amounts relating to the matters mentioned in section 306A(1) in respect of that loan relationship have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and
  - (c) condition A or B is met.
- (2) Condition A is that, at the time when the asset or liability ceases to be recognised, it is not expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (4) The amounts mentioned in subsection (1)(b)—
  - (a) must be brought into account for the purposes of this Part as credits or debits for the period of account in which the time mentioned in subsection (2) or (3) falls, in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice, and
  - (b) must not be brought into account for a later period of account even if they are subsequently transferred to become items of profit or loss for the later period.
- (5) This section applies in a case where part of an asset or liability representing a loan relationship of a company ceases to be recognised in the company's accounts as it applies in a case where the whole of an asset or liability representing a loan relationship ceases to be recognised, but as if the reference in subsection (1)(b) to amounts in respect of the loan relationship were a reference to so much of those amounts as are attributable to that part of the asset or liability.

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- (6) In determining what amounts fall within subsection (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.
- (7) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in subsection (6), that different assumption applies in determining what amounts fall within subsection (1)(b) at the time in question.
- (8) In this section “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- 15 Omit section 321 (credits and debits recognised in equity).
- 16 (1) Section 322 (credits not required to be brought into account in respect of release of debt in certain cases) is amended as follows.
- (2) In subsection (2), for “D” substitute “ E ”.
- (3) Omit subsection (4A).
- (4) After subsection (5A) insert—
- “(5B) Condition E is that—
- (a) the release is neither a deemed release, as defined by section 358(3), nor a release of relevant rights, and
- (b) immediately before the release, it is reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts.”
- (5) After subsection (6) insert—
- “(6A) In subsections (4) and (5B)(a), “relevant rights” has the same meaning as in section 358.”
- (6) In subsection (7), after “Section” insert “ 323(A1) applies for the interpretation of subsection (5B)(b); and the rest of section ”.
- 17 In section 323 (meaning of expressions relating to insolvency etc.), before subsection (1) insert—
- “(A1) For the purposes of sections 322(5B) and 323A(1)(b) a company is unable to pay its debts if—
- (a) it is unable to pay its debts as they fall due, or
- (b) the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”
- 18 After section 323 insert—
- “323A Substantial modification: cases where credits not required to be brought into account**
- (1) Subsection (2) applies if—

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- (a) a debtor relationship of a company is modified or replaced by another,
  - (b) immediately before the modification or replacement it is reasonable to assume that, without the modification or replacement and any arrangements of which the modification or replacement forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts, and
  - (c) the modification or replacement is treated for accounting purposes as a substantial modification of the terms of a loan relationship of the company.
- (2) The company is not required to bring into account for the purposes of this Part a credit in respect of any change in the carrying value of the liability representing the modified or replacement debtor relationship.
- (3) If as a result of subsection (2) no credit was brought into account in respect of a change in the carrying value of a liability representing a debtor relationship, the company may not bring into account a debit for the purposes of this Part in respect of a change in the carrying value of that liability, to the extent that the change represents a reversal of the change in carrying value to which subsection (2) applied.
- (4) Section 323(A1) applies for the interpretation of subsection (1)(b).”
- 19 In section 324 (restriction on debts resulting from revaluation), after subsection (3) insert—
- “(3A) Where a company has a hedging relationship between a relevant contract (“the hedging instrument”) and the asset or liability representing the loan relationship, this section does not prevent credits or debits being brought into account in respect of changes in the fair value of the asset or liability which are attributable to any of the risks in respect of which the hedging instrument was intended to act as a hedge.”
- 20 (1) Section 328 (exchange gains and losses) is amended as follows.
- (2) In subsection (1), for “section 307(3)” substitute “ section 306A(1) ”.
- (3) Omit subsections (2) and (2A).
- (4) For subsection (3) substitute—
- “(3) But subsection (1) does not apply to an exchange gain or loss of a company so far as it—
- (a) arises as a result of the translation of the assets, liabilities, income and expenses of all or part of the company's business from the functional currency of the business, or that part of the business, into another currency, and
  - (b) has been recognised as an item of other comprehensive income.
- (3A) In subsection (3)—
- (a) the reference to the functional currency of a business or part of a business is a reference to the currency of the primary economic environment in which the business or part operates, and



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- (b) “assets, liabilities, income and expenses” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.
- (3B) No amount is to be brought into account for the purposes of this Part in respect of an exchange gain or loss of an investment company (within the meaning of section 17 of CTA 2010) which would not have arisen but for a change in the company's functional currency (within the meaning of section 17(4) of that Act) as between—
- (a) the period of account of the company in which the gain or loss arises, and
  - (b) a period of account of the company ending in the 12 months immediately preceding that period.
- (3C) But subsection (3B) does not apply to an exchange gain or loss arising at a time when an election under section 9A of CTA 2010 (designated currency of UK resident investment company) has effect in relation to the company.”
- (5) For subsection (4) substitute—
- “(4) The Treasury may by regulations make provision—
- (a) excluding exchange gains or losses of a specified description from being brought into account for the purposes of this Part,
  - (b) requiring exchange gains or losses of a specified description which would not otherwise be brought into account for the purposes of this Part to be brought into account in specified circumstances,
  - (c) as to the way in which, including the currency by reference to which, any exchange gains or losses to be brought into account as a result of provision made under paragraph (b) are to be calculated, and
  - (d) as to the way in which any such exchange gains or losses are to be brought into account.
- (4ZA) For the purposes of subsection (4)(b), it does not matter whether the exchange gains or losses would otherwise be excluded from being brought into account as a result of regulations under subsection (4)(a) or otherwise.”
- (6) Omit subsections (4A) and (5).
- (7) For subsection (6) substitute—
- “(6) The reference in subsection (4) to bringing exchange gains or losses into account is a reference to bringing them into account—
- (a) for the purposes of this Part as credits or debits arising to a company from its loan relationships, or
  - (b) for the purposes of corporation tax on chargeable gains.”
- 21 Omit sections 328A to 328H (loan relationships: arrangements that have a “one-way exchange effect”) (which are superseded by the amendment made by paragraph 51).
- 22 (1) Section 329 (pre-loan relationship and abortive expenses) is amended as follows.
- (2) In subsection (1)(c), for “section 307(3)(c)” substitute “ section 306A(1)(c) ”.
  - (3) In subsection (2), for “section 307(3)” substitute “ section 307(2) ”.

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23           After section 330 insert—

*“Company is not, or has ceased to be, party to loan relationship*

**330A Company is not, or has ceased to be, party to loan relationship**

- (1) This section applies if—
- (a) amounts in respect of a qualifying relationship are recognised in a company's accounts for an accounting period (“the current period”) as an item of profit or loss even though during all or part of the period the company is not a party to the qualifying relationship,
  - (b) any of conditions A to D is met, and
  - (c) in the absence of this section, the credits and debits brought into account by the company for the purposes of this Part or Part 7 for the current period would not include credits or debits representing the whole of those amounts.
- (2) In this section “qualifying relationship” means—
- (a) a loan relationship, or
  - (b) a relationship that would be a loan relationship if references in section 302(1) to a company were references to any person.
- References in this section to a company being a party to a qualifying relationship are to be read accordingly.
- (3) Condition A is that—
- (a) the company was a party to the qualifying relationship,
  - (b) amounts in respect of the qualifying relationship were recognised in the company's accounts as an item of profit or loss when it was a party to the relationship, and
  - (c) any amounts in respect of the relationship continue to be recognised in those accounts as an item of profit or loss.
- (4) Condition B is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a transaction which has the effect of transferring to the company all or part of the risk or reward relating to the qualifying relationship without a corresponding transfer of rights or obligations under the relationship.
- (5) Condition C is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a related transaction in relation to a qualifying relationship to which the company was, but has ceased to be, a party.
- (6) Condition D is that—
- (a) the amounts recognised as mentioned in subsection (1)(a) are recognised because the company may enter into a qualifying relationship or related transaction but has not yet done so, and
  - (b) the amounts are not expenses to which section 329 applies.
- (7) The company must bring credits and debits into account for the purposes of this Part for the accounting period as if the company were a party to the qualifying relationship for the whole of the accounting period.

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- (8) The amounts that must be brought into account are those amounts in respect of the qualifying relationship that are recognised in the company's accounts for the accounting period as an item of profit or loss (but subject to the provisions of this Part).
- (9) This section is subject to sections 330B and 330C.
- (10) In this section—
- “item of profit or loss” has the meaning it has for accounting purposes;
  - “recognised” means recognised in accordance with generally accepted accounting practice;
  - “related transaction”, in relation to a qualifying relationship, is to be read as if the references in section 304(1) and (2) to a loan relationship were to a qualifying relationship.

### **330B Exclusion of debit where relief allowed to another**

A company is not to bring into account as a debit for the purposes of this Part as a result of section 330A an amount which—

- (a) is brought into account as a debit for those purposes by another company,
- (b) is brought into account so as to reduce the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
- (c) is allowable as a deduction by a person for the purposes of income tax.

### **330C Avoidance of double charge**

- (1) This section applies if at any time a company (“the relevant company”) is required by section 330A to bring into account as a credit for the purposes of this Part an amount—
- (a) which is brought into account as a credit for those purposes by another company,
  - (b) which is brought into account in determining the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
  - (c) on which a person is charged to income tax.
- (2) In order to avoid a double charge to tax in respect of the amount, the relevant company may make a claim for one or more consequential adjustments to be made in respect of the amount to be brought into account as a credit.
- (3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (4) Consequential adjustments may be made—
- (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

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- (c) despite any time limit imposed by or under any enactment.”
- 24 Omit section 331 (company ceasing to be a party to loan relationship) and section 332 (repo, stock lending and other transactions).
- 25 In section 340 (group transfers and transfers of insurance business: transfer at notional carrying value), in subsection (6)—
- (a) omit paragraph (a), and
- (b) in paragraph (c), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- 26 (1) Section 342 (issue of new securities on reorganisations: disposal at notional carrying value) is amended as follows.
- (2) In subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- (3) In subsection (4), omit the definition of “carrying value”.
- 27 Omit section 347 (disapplication of Chapter 4 of Part 5 where transferor party to avoidance) (which is superseded by the amendment made by paragraph 51).
- 28 (1) Section 349 (application of amortised cost basis to connected companies relationships) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Where—
- (a) a company has a hedging relationship between a relevant contract (“the hedging instrument”) and the asset or liability representing the loan relationship, and
- (b) the loan relationship is dealt with in the company’s accounts on the basis of fair value accounting,
- it is to be assumed in applying an amortised cost basis of accounting for the purpose of subsection (2) that the hedging instrument has where possible been designated for accounting purposes as a fair value hedge of the loan relationship.”
- (3) Omit subsections (3) and (4).
- 29 Omit section 350 (companies beginning to be connected) and section 351 (companies ceasing to be connected).
- 30 In section 352 (disregard of related transactions), after subsection (3) insert—
- “(3A) Subsections (2) and (3) do not affect the credits or debits to be brought into account for the purposes of this Part in respect of changes in the fair value of the asset that are attributable to changes in the corresponding market rate.
- (3B) Subsection (3A) is subject to section 354 (exclusion of debits for impaired or released connected companies debts).
- (3C) In relation to a debt, “the corresponding market rate” at any time is the lowest rate at which a company of good financial standing might at that time expect to be able to borrow money at arm’s length in the currency applicable to the debt, for repayment at the same time as the debt and otherwise on similar terms.”

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31 After section 352 insert—

**“352A Exclusion of credits on reversal of disregarded loss**

- (1) If as a result of section 352 the debits brought into account by a company in respect of a loan relationship are reduced, no credit is to be brought into account for the purposes of this Part to the extent that it represents the reversal of so much of the loss as was not brought into account as a debit.
- (2) Nothing in this section affects the credits to be brought into account for the purposes of this Part in respect of exchange gains or losses resulting from a debt.”

32 In section 354 (exclusion of debits for impaired or released connected companies debts), after subsection (2) insert—

“(2A) Where the carrying value of an asset representing the creditor relationship has at any time been adjusted as a result of the asset being the hedged item under a designated fair value hedge, the rule in subsection (1) does not prevent a credit or debit being brought into account for the purposes of this Part in respect of any reversal of that adjustment.”

33 (1) Section 358 (exclusion of credits on release of connected companies debts: general) is amended as follows.

(2) For subsection (4) substitute—

“(4) For the purposes of this section “relevant rights” means rights of a company (“C”) that—

- (a) were acquired by C, before the day on which F(No2)A 2015 was passed, in circumstances that, but for the application of the old corporate rescue exception or the old debt-for-debt exception, would have resulted in a deemed release under section 361(3), or
- (b) were acquired by another company before that day in such circumstances and transferred to C by way of an assignment or assignments.

(4A) In subsection (4)(a)—

- (a) “the old corporate rescue exception” means the exception in section 361A (as it had effect before F(No2)A 2015);
- (b) “the old debt-for-debt exception” means the exception in section 361B (as it had effect before that Act).”

(3) After subsection (6) insert—

“(7) Where the carrying value of a liability representing the debtor relationship has at any time been adjusted as a result of the liability being the hedged item under a designated fair value hedge, this section does not prevent a credit or debit being brought into account for the purposes of this Part in respect of any reversal of that adjustment.

(8) Nothing in this section affects the credits or debits to be brought into account for the purposes of this Part in respect of exchange gains or losses arising from a debt.”

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- 34 (1) Section 359 (exclusion of credits on release of connected companies debts during creditor's insolvency) is amended as follows.
- (2) In subsection (1)(d), for “the condition in question” substitute “ any of those conditions ”.
- (3) After subsection (2) insert—
- “(3) Where the carrying value of a liability representing the debtor relationship has at any time been adjusted as a result of the liability being the hedged item under a designated fair value hedge, this section does not prevent a credit being brought into account for the purposes of this Part in respect of any reversal of that adjustment.”
- 35 (1) Section 361 (acquisition of creditor rights by connected company at undervalue) is amended as follows.
- (2) In subsection (1), for paragraph (f) substitute—
- “(f) the equity-for-debt exception (see section 361C) does not apply.”
- (3) Omit subsection (2).
- (4) After subsection (6) insert—
- “(7) Subsections (3) and (4) are subject to section 361D (corporate rescue: debt released shortly after acquisition).”
- 36 Omit section 361A (the corporate rescue exception) and section 361B (the debt-for-debt exception).
- 37 After section 361C insert—

**“361D Corporate rescue: debt released shortly after acquisition**

- (1) This section applies if—
- (a) the case is one in which section 361 would otherwise apply,
  - (b) within 60 days after C becomes a party to the loan relationship as creditor, C or a company connected with C releases D's liability to pay an amount under the loan relationship, and
  - (c) the corporate rescue conditions are met.
- (2) If the release is of the whole debt, section 361 does not apply to the acquisition of the rights by C.
- (3) If the release is of part of the debt, the amount that C is treated by section 361 as having released when it acquired the rights under the loan relationship is reduced (but not below nil) by the amount that is actually released as mentioned in subsection (1)(b).
- (4) The corporate rescue conditions are—
- (a) that the acquisition by C of its rights under the loan relationship is an arm's length transaction,
  - (b) that immediately before C became a party to the loan relationship as creditor, it was reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months the company would have been unable to pay its debts.

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- (5) For the purposes of subsection (4)(b), a company is unable to pay its debts if—
- (a) it is unable to pay its debts as they fall due, or
  - (b) the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”
- 38 In section 362 (parties becoming connected where creditor's rights subject to impairment adjustment etc), after subsection (5) insert—
- “(6) Subsections (2) and (3) are subject to section 362A (corporate rescue: debt released shortly after connection arises).”
- 39 After section 362 insert—

**“362A Corporate rescue: debt released shortly after connection arises**

- (1) This section applies if—
- (a) the case is one in which section 362 would otherwise apply,
  - (b) within 60 days after C and D become connected, C releases D's liability to pay an amount under the loan relationship, and
  - (c) the corporate rescue conditions are met.
- (2) If the release is of the whole debt, section 362 does not apply by reason of C and D becoming connected.
- (3) If the release is of part of the debt, the amount that C is treated by section 362 as having released when it became connected with D is reduced (but not below nil) by the amount actually released.
- (4) The corporate rescue conditions are—
- (a) that C and D became connected as a result of an arm's length transaction, and
  - (b) that immediately before C and D became connected it was reasonable to assume that, without the connection and any arrangements of which the connection forms part, there would be a material risk that at some time within the next 12 months D would have been unable to pay its debts.
- (5) For the purposes of subsection (4)(b), a company is unable to pay its debts if—
- (a) it is unable to pay its debts as they fall due, or
  - (b) the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”
- 40 In section 363 (companies connected for sections 361 to 362), in subsections (1) and (4) and in the heading, for “to 362” substitute “ to 362A ”.
- 41 In section 422 (transfer of loan relationship at notional carrying value), in subsection (3)—
- (a) omit paragraph (a) (including the “and” at the end), and
  - (b) in paragraph (b), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.

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- 42 (1) Section 424 (reorganisations involving loan relationships) is amended as follows.
- (2) In subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- (3) In subsection (4), omit the definition of “carrying value”.
- 43 In section 433 (transfer of loan relationship at notional carrying value), in subsection (3)—
- (a) omit paragraph (a) and the “and” immediately following it, and
- (b) in paragraph (b), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- 44 (1) Section 435 (reorganisations involving loan relationships) is amended as follows.
- (2) In subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- (3) In subsection (4), omit the definition of “carrying value”.
- 45 In section 440 (overview of Chapter 15 of Part 5), in subsection (2)—
- (a) in paragraph (a)—
- (i) omit “and tax relief schemes and arrangements”, and
- (ii) for “to 443” substitute “ and 442 ”,
- (b) omit paragraph (f) (including the “and” at the end), and
- (c) at the end of paragraph (g) insert “and
- (h) for rules dealing with tax avoidance arrangements, see sections 455B to 455D.”.
- 46 In section 441 (loan relationships for unallowable purposes), after subsection (3) insert—
- “(3A) If—
- (a) a credit brought into account for that period for the purposes of this Part by the company would (in the absence of this section) be reduced, and
- (b) the reduction represents an amount which, if it did not reduce a credit, would be brought into account as a debit in respect of that relationship,
- subsection (3) applies to the amount of the reduction as if it were an amount that would (in the absence of this section) be brought into account as a debit.”
- 47 In section 442 (meaning of “unallowable purpose”), after subsection (1) insert—
- “(1A) In subsection (1)(b) “related transaction”, in relation to a loan relationship, includes anything which equates in substance to a disposal or acquisition of the kind mentioned in section 304(1) (as read with section 304(2)).”
- 48 Omit section 443 (restriction of relief for interest where tax relief schemes involved) (which is superseded by the amendment made by paragraph 51).
- 49 In section 450 (meaning of “corresponding debtor relationship”), in subsection (6), for “328(2) to (7)” substitute “ 328(3) to (7) ”.
- 50 Omit section 454 (application of fair value accounting: reset bonds etc) and section 455 (loan relationships: disposal for consideration not fully recognised by



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accounting practice) (which are superseded by the amendment made by paragraph 51).

51 In Chapter 15 of Part 5, after section 455A insert—

*“Counteracting avoidance arrangements*

**455B Counteracting effect of avoidance arrangements**

- (1) Any loan-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to credits and debits to be brought into account for the purposes of this Part.
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) For the meaning of “relevant avoidance arrangements” and “loan-related tax advantage”, see section 455C.

**455C Interpretation of section 455B**

- (1) This section applies for the interpretation of section 455B (and this section).
- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a loan-related tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any loan-related tax advantages that would (in the absence of section 455B) arise from them can reasonably be regarded as consistent with any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied) and the policy objectives of those provisions.
- (5) A company obtains a “loan-related tax advantage” if—
  - (a) it brings into account a debit to which it would not otherwise be entitled,
  - (b) it brings into account a debit which exceeds that to which it would otherwise be entitled,
  - (c) it avoids having to bring a credit into account,
  - (d) the amount of any credit brought into account by the company is less than it would otherwise be, or
  - (e) it brings a debit or credit into account earlier or later than it otherwise would.
- (6) In subsection (5), references to bringing a debit or credit into account are references to bringing a debit or credit into account for the purposes of this Part.

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#### **455D Examples of results that may indicate exclusion not applicable**

- (1) Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a loan-related tax advantage are not excluded by section 455C(4) from being “relevant avoidance arrangements” for the purposes of section 455B—
  - (a) the elimination or reduction, for purposes of corporation tax, of profits of a company arising from any of its loan relationships, where for economic purposes profits, or greater profits, arise to the company from that relationship;
  - (b) the creation or increase, for purposes of corporation tax, of a loss or expense arising from a loan relationship, where for economic purposes no loss or expense, or a smaller loss or expense, arises from that relationship;
  - (c) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company's accounts as an item of profit or loss or be so recognised earlier;
  - (d) ensuring that a loan relationship is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements;
  - (e) enabling a company to bring into account for the purposes of this Part a debit in respect of an exchange loss, in circumstances where a corresponding exchange gain would not give rise to a credit or would give rise to a credit of a smaller amount;
  - (f) enabling a company to bring into account for the purposes of this Part a debit in respect of a fair value loss in circumstances where a corresponding fair value gain would not give rise to a credit or would give rise to a credit of a smaller amount;
  - (g) ensuring that the effect of the provisions of Chapter 4 is to produce an overall reduction in the credits brought into account for the purposes this Part or an overall increase in the debits brought into account for those purposes;
  - (h) bringing into account for the purposes of this Part an impairment loss or release debit in a case where the provisions of Chapter 6 would but for the arrangements have prevented this.
- (2) But in each case the result concerned is only capable of indicating that section 455C(4) is not available if it is reasonable to assume that such a result was not the anticipated result when the provisions of this Part that are relevant to the arrangements were enacted.
- (3) In subsection (1)(f) references to a fair value gain or a fair value loss, in relation to a company, are references respectively to—
  - (a) a profit to be brought into account in relation to an asset or liability representing a loan relationship where fair value accounting is used for the period in question, or
  - (b) a loss to be brought into account in relation to such an asset or liability where fair value accounting is used for the period in question.

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- (4) “Arrangements” and “loan-related tax advantage” have the same meaning as in section 455C.”

52 After section 465A insert—

*“Tax-adjusted carrying value*

**465B “Tax-adjusted carrying value”**

- (1) This section applies for the purposes of this Part.
- (2) “Tax-adjusted carrying value”, in relation to the asset or liability representing a loan relationship, means the carrying value of the asset or liability recognised for accounting purposes, except as provided by subsection (8).
- (3) For the purposes of this section the “carrying value” of the asset or liability includes amounts recognised for accounting purposes in relation to the loan relationship in respect of—
- (a) accrued amounts,
  - (b) amounts paid or received in advance, or
  - (c) impairment losses (including provisions for bad or doubtful debts).
- (4) For the meaning of “impairment loss” see section 476(1).
- (5) In determining the tax-adjusted carrying value of an asset or liability in a period of account of a company, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous periods of account.
- (6) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods of account which differs from that mentioned in subsection (5), that different assumption applies in determining the tax-adjusted carrying value of the asset or liability in the period.
- (7) In determining the tax-adjusted carrying value of an asset or liability at a time other than the end (or beginning) of a period of account of a company, it is to be assumed that a period of account of the company had ended at the time in question.
- (8) In determining the tax-adjusted carrying value of the asset or liability, the provisions specified in subsection (9) apply as they apply for the purposes of determining the credits and debits to be brought into account under this Part.
- (9) Those provisions are—
- (a) section 308(1A) (amounts recognised in other comprehensive income and transferred to profit and loss),
  - (b) sections 311 and 312 (amounts not fully recognised for accounting purposes),
  - (c) section 320A (amounts recognised in other comprehensive income and not transferred to profit and loss),
  - (d) section 323A (substantial modification: cases where credits not required to be brought into account),

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- (e) section 324 (restriction on debits resulting from revaluation),
  - (f) section 325 (restriction on credits resulting from reversal of disallowed debits),
  - (g) sections 333 and 334 (company ceasing to be UK resident and non-UK company ceasing to hold loan relationship for UK permanent establishment),
  - (h) Chapter 4 (continuity of treatment on transfers within groups or organisations),
  - (i) section 349(2) (application of amortised cost basis of accounting to connected companies relationships),
  - (j) section 352 (disregard of related transactions),
  - (k) section 352A (exclusion of credits on reversal of disregarded loss),
  - (l) section 354 (exclusion of debits for impaired or released connected companies debts),
  - (m) section 360 (exclusion of credits on reversal of impairments of connected companies debts),
  - (n) sections 361 to 363 (deemed debt releases on impaired debts becoming held by connected company),
  - (o) Chapter 8 (connected parties relationships: late interest),
  - (p) section 382 (company partners using fair value accounting),
  - (q) sections 399 to 400C (treatment of index-linked gilt-edged securities),
  - (r) section 404 (restriction on deductions etc relating to FOTRA securities),
  - (s) sections 406 to 412 (deeply discounted securities and close companies),
  - (t) section 415(2) (loan relationships with embedded derivatives),
  - (u) Chapter 13 (European cross-border transfers of business), and
  - (v) Chapter 14 (European cross-border mergers).”
- 53 In section 475 (meaning of expressions relating to exchange gains and losses), in subsection (3), omit “in a case where fair value accounting is used by the company”.
- 54 After section 475 insert—

*“Meaning of “hedging relationship”*”

**475A “Hedging relationship”**

- (1) This section applies for the purposes of this Part.
- (2) A company has a “hedging relationship” between a relevant contract (“the hedging instrument”) and an asset or liability (“the hedged item”) so far as condition A or B is met.
- (3) Condition A is that the hedging instrument and the hedged item are designated as a hedge by the company.
- (4) Condition B is that—

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- (a) the hedging instrument is intended to act as a hedge of the exposure to changes in fair value of the hedged item which is attributable to a particular risk and could affect the profit or loss of the company, and
    - (b) the hedged item is an asset or liability recognised for accounting purposes or is an identified portion of such an asset or liability.
  - (5) For the purposes of subsections (2) and (4), the liabilities of a company include its own share capital.”
- 55 In section 476 (other definitions), in subsection (1)—
  - (a) before the definition of “alternative finance arrangements” insert—
    - ““accounting policy”, in relation to a company, means the principles, bases, conventions, rules and practices that the company applies in preparing and presenting its financial statements,”
  - (b) after the definition of “equity instrument” insert—
    - ““fair value” has the meaning it has for accounting purposes,”
  - (c) after the definition of “release debit” insert—
    - ““relevant contract” has the same meaning as in Part 7 (see section 577),”
  - (d) in the definition of “tax advantage”, for “has” substitute “ , except in the expression “loan-related tax advantage”, has ”.
- 56 Part 6 of CTA 2009 (relationships treated as loan relationships etc) is amended as follows.
- 57 In section 521F (shares becoming or ceasing to be shares to which section 521B applies)—
  - (a) in subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”, and
  - (b) omit subsection (4).
- 58 In section 540 (manufactured interest treated as interest under loan relationship), in subsection (3), omit “, including, in particular, section 307(3)”.

## PART 2

### DERIVATIVE CONTRACTS: AMENDMENTS OF PART 7 OF CTA 2009

- 59 Part 7 of CTA 2009 (derivative contracts) is amended as follows.
- 60 In section 594 (overview of Chapter 3 of Part 7), in subsection (2)—
  - (a) before paragraph (a) insert—
    - “(za) makes provision about the matters in respect of which amounts are to be brought into account (see section 594A),” and
  - (b) for paragraph (g) substitute—
    - “(g) makes provision about cases where amounts are recognised even though companies are not, or have ceased to be, parties to derivative contracts (see section 607A),

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- (ga) makes provision about companies moving abroad (see sections 609 and 610), and”.

61 After section 594 insert—

*“Matters in respect of which amounts are to be brought into account*

**594A Matters in respect of which amounts are to be brought into account**

- (1) The matters in respect of which amounts are to be brought into account for the purposes of this Part in respect of a company's derivative contracts are—
  - (a) profits and losses of the company which arise to it from its derivative contracts and related transactions (excluding expenses), and
  - (b) expenses incurred by the company under or for the purposes of those contracts and transactions.
- (2) Expenses are only treated as incurred as mentioned in subsection (1)(b) if they are incurred directly—
  - (a) in bringing any of the derivative contracts into existence,
  - (b) in entering into or giving effect to any of the related transactions,
  - (c) in making payments under any of those contracts or as a result of any of those transactions, or
  - (d) in taking steps to secure the receipt of payments under any of those contracts or in accordance with any of those transactions.
- (3) For the treatment of pre-contract or abortive expenses, see section 607.
- (4) In subsection (1) “profits and losses” include profits and losses of a capital nature.
- (5) For the meaning of “related transaction”, see section 596.”

62 (1) Section 595 (general principles about the bringing into account of credits and debits) is amended as follows.

(2) In subsection (2)—

- (a) after “this Part” insert “ in respect of the matters mentioned in section 594A(1) ”, and
- (b) omit “(but this is subject to subsections (3) and (4))”.

(3) After subsection (2) insert—

“(2A) Subsections (2B) and (2C) apply if an accounting period of a company does not coincide with one or more of its periods of account.

(2B) The amounts referred to in subsection (2) are to be determined by apportionment in accordance with section 1172 of CTA 2010 (time basis).

(2C) But if it appears that apportionment in accordance with that section would work unreasonably or unjustly for an accounting period, subsection (2) is to be read as referring to amounts that would have been recognised in determining the company's profit or loss for that period in accordance with generally accepted accounting practice if accounts had been drawn up for that period.”

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- (4) Omit subsections (3) to (6) and (8).
- 63 (1) Section 597 (amounts recognised in determining a company's profit or loss) is amended as follows.
- (2) In subsection (1), for the words from “recognised”, in the second place, onwards substitute “ that is recognised in the company's accounts for the period as an item of profit or loss ”.
- (3) After subsection (1) insert—
- “(1A) The reference in subsection (1) to an amount recognised in the company's accounts for the period as an item of profit or loss includes a reference to an amount that—
- (a) was previously recognised as an item of other comprehensive income, and
- (b) is transferred to become an item of profit or loss in determining the company's profit or loss for the period.
- (1B) In subsections (1) and (1A) “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- (4) Omit subsections (2) and (3).
- 64 In section 599B (determination of credits and debits where amounts not fully recognised), in subsection (4)(b), for “carrying value” substitute “ tax-adjusted carrying value ”.
- 65 (1) Section 604 (credits and debits treated as relating to capital expenditure) is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) This section applies if—
- (a) an amount for an accounting period in respect of a company's derivative contract relates to any of the matters in section 594A(1),
- (b) generally accepted accounting practice allows the amount to be treated in the company's accounts as an amount recognised in determining the carrying value of an asset or liability, and
- (c) any profit or loss for corporation tax purposes in relation to that asset or liability will not fall to be calculated in accordance with generally accepted accounting practice.
- (2) Despite that treatment, the amount must be brought into account as a credit or debit in accordance with this Part, for the accounting period in which it is recognised, in the same way as an amount which is brought into account as a credit or debit in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.
- (3) But subsection (2) does not apply to an amount which relates to an intangible fixed asset to which an election under section 730 (writing down at fixed rate: election for fixed-rate basis) applies.”
- (3) Omit subsection (4).

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(4) For subsection (5) substitute—

- “(5) If an amount is brought into account as mentioned in subsection (2) as a debit, no debit may be brought into account in accordance with this Part in respect of—
- (a) the writing down of so much of the value of the asset or liability as is attributable to that debit, or
  - (b) so much of any amortisation or depreciation representing a writing off of that value as is attributable to that debit.”

66 After section 604 insert—

**“604A Amounts recognised in other comprehensive income and not transferred to profit or loss**

- (1) This section applies if—
  - (a) in a period of account a derivative contract of a company ceases in accordance with generally accepted accounting practice to be recognised in the company's accounts,
  - (b) amounts relating to the matters mentioned in section 594A(1) in respect of that derivative contract have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and
  - (c) condition A or B is met.
- (2) Condition A is that, at the time when the derivative contract ceases to be recognised, it is not expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss.
- (4) The amounts mentioned in subsection (1)(b)—
  - (a) must be brought into account for the purposes of this Part as credits or debits for the period of account in which the time mentioned in subsection (2) or (3) falls, in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice, and
  - (b) must not be brought into account for a later period of account even if they are subsequently transferred to become items of profit or loss for the later period.
- (5) This section applies in a case where part of a derivative contract of a company ceases to be recognised in the company's accounts as it applies in a case where the whole of a derivative contract ceases to be recognised, but as if the reference in subsection (1)(b) to amounts in respect of a derivative contract were a reference to so much of those amounts as are attributable to that part of the derivative contract.



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(6) In determining what amounts fall within subsection (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.

(7) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in subsection (6), that different assumption applies in determining what amounts fall within subsection (1)(b) at the time in question.

(8) In this section “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”

67 Omit section 605 (credits and debits recognised in equity).

68 (1) Section 606 (exchange gains and losses) is amended as follows.

(2) In subsection (1), for “section 595(3)” substitute “ section 594A(1) ”.

(3) Omit subsections (2) and (2A).

(4) For subsection (3) substitute—

“(3) But subsection (1) does not apply to an exchange gain or loss of a company so far as it—

- (a) arises as a result of the translation of the assets, liabilities, income and expenses of all or part of the company's business from the functional currency of the business, or that part of the business, into another currency, and
- (b) has been recognised as an item of other comprehensive income.

(3A) In subsection (3)—

- (a) the reference to the functional currency of a business or part of a business is a reference to the currency of the primary economic environment in which the business or part operates, and
- (b) “assets, liabilities, income and expenses” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.

(3B) No amount is to be brought into account for the purposes of this Part in respect of an exchange gain or loss of an investment company (within the meaning of section 17 of CTA 2010) which would not have arisen but for a change in the company's functional currency (within the meaning of section 17(4) of that Act) as between—

- (a) the period of account of the company in which the gain or loss arises, and
- (b) a period of account of the company ending in the 12 months immediately preceding that period.

(3C) But subsection (3B) does not apply to an exchange gain or loss arising at a time when an election under section 9A of CTA 2010 (designated currency of UK resident investment company) has effect in relation to the company.”

(5) For subsection (4) substitute—

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“(4) The Treasury may by regulations make provision—

- (a) excluding exchange gains or losses of a specified description from being brought into account for the purposes of this Part,
- (b) requiring exchange gains or losses of a specified description which would not otherwise be brought into account for the purposes of this Part to be brought into account in specified circumstances,
- (c) as to the way in which, including the currency by reference to which, any exchange gains or losses to be brought into account as a result of provision made under paragraph (b) are to be calculated, and
- (d) as to the way in which any such exchange gains or losses are to be brought into account.

(4ZA) For the purposes of subsection (4)(b), it does not matter whether the exchange gains or losses would otherwise be excluded from being brought into account by regulations under subsection (4)(a) or otherwise.”

(6) Omit subsections (4A) to (5).

(7) In subsection (6)—

- (a) for “The reference in subsection (5)” substitute “References in subsection (4)”, and
- (b) for “is a reference” substitute “are references”.

69 Omit sections 606A to 606H (derivative contracts: arrangements that have “one-way exchange effect”) (which are superseded by the amendments made by paragraph 94).

70 (1) Section 607 (pre-contract or abortive expenses) is amended as follows.

(2) In subsection (1)(c), for “section 595(3)(b)” substitute “section 594A(1)(b)”.

(3) In subsection (2), for “section 595(3)” substitute “section 595(2)”.

71 After section 607 insert—

**“607A Company is not, or has ceased to be, party to derivative contract**

(1) This section applies if—

- (a) amounts in respect of a qualifying contract are recognised in a company's accounts for an accounting period (“the current period”) as an item of profit or loss even though during all or part of the period the company is not a party to the qualifying contract,
- (b) any of conditions A to D is met, and
- (c) in the absence of this section, the credits and debits brought into account by the company for the purposes of this Part for the current period would not include credits or debits representing the whole of those amounts.

(2) In this section “qualifying contract” means—

- (a) a derivative contract, or
- (b) a contract that would be a derivative contract if references in section 576(1) to a company were references to any person.

(3) Condition A is that—

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- (a) the company was a party to the qualifying contract,
  - (b) amounts in respect of the qualifying contract were recognised in the company's accounts as an item of profit or loss when it was a party to the contract, and
  - (c) any amounts in respect of the contract continue to be recognised in those accounts as an item of profit or loss.
- (4) Condition B is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a transaction which has the effect of transferring to the company all or part of the risk or reward relating to the qualifying contract without a corresponding transfer of rights or obligations under the contract.
- (5) Condition C is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a related transaction in relation to a qualifying contract to which the company was, but has ceased to be, a party.
- (6) Condition D is that—
- (a) the amounts recognised as mentioned in subsection (1)(a) are recognised because the company may enter into a qualifying contract or related transaction but has not yet done so, and
  - (b) the amounts are not expenses to which section 607 applies.
- (7) The company must bring credits and debits into account for the purposes of this Part for the accounting period as if the company were a party to the qualifying contract for the whole of the accounting period.
- (8) The amounts that must be brought into account are those amounts in respect of the qualifying contract that are recognised in the company's accounts for the accounting period as an item of profit or loss (but subject to the provisions of this Part).
- (9) This section is subject to sections 607B and 607C.
- (10) In this section—
- “item of profit or loss” has the meaning it has for accounting purposes;
  - “recognised” means recognised in accordance with generally accepted accounting practice;
  - “related transaction”, in relation to a qualifying contract, is to be read as if the references in section 596(1) and (2) to a derivative contract were to a qualifying contract.

#### **607B Exclusion of debit where relief allowed to another**

A company is not to bring into account as a debit for the purposes of this Part as a result of section 607A any amount which—

- (a) is brought into account as a debit for those purposes by another company,
- (b) is brought into account so as to reduce the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or

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- (c) is allowable as a deduction by a person for the purposes of income tax.

### **607C Avoidance of double charge**

- (1) This section applies if at any time a company (“the relevant company”) is required by section 607A to bring into account as a credit for the purposes of this Part an amount—
- (a) which is brought into account as a credit for those purposes by another company,
  - (b) which is brought into account in determining the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
  - (c) on which a person is charged to income tax.
- (2) In order to avoid a double charge to tax in respect of the amount, the relevant company may make a claim for one or more consequential adjustments to be made in respect of the amount brought into account as a credit.
- (3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (4) Consequential adjustments may be made—
- (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  - (c) despite any time limit imposed by or under any enactment.”

72 Omit section 608 (company ceasing to be party to derivative contract).

73 In section 612 (overview of Chapter 4 of Part 7), in subsection (2)(a), for “policy” substitute “ basis ”.

74 In the italic heading before section 613, for “policy” substitute “ basis ”.

75 (1) Section 613 (introduction to sections 614 and 615) is amended as follows.

(2) For subsection (1) substitute—

“(1) Sections 614 and 615 (adjustments on change of accounting basis) apply if—

- (a) a company changes, from one period of account or accounting period to the next, the basis of accounting on which credits and debits relating to its derivative contracts or any of them are calculated for the purposes of this Part,
- (b) the change of basis—
  - (i) is made in order to comply with a provision made by or under this Part requiring those credits and debits to be determined on a particular basis of accounting, or
  - (ii) results from a change of the company's accounting policy,
- (c) the change of basis is not made in order to comply with amending legislation not applicable to the previous period,
- (d) the old basis accorded with the law or practice applicable in relation to the period before the change, and

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- (e) the new basis accords with the law and practice applicable to the period after the change.”
  - (3) In subsection (2), for “those periods of account” substitute “ the periods mentioned in subsection (1) ”.
  - (4) Omit subsection (3).
- 76 For section 614 substitute—

**“614 Change of basis of accounting involving change of value**

- (1) If there is a difference between—
    - (a) the tax-adjusted carrying value of a derivative contract at the end of the earlier period, and
    - (b) the tax-adjusted carrying value of that derivative contract at the beginning of the later period,a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.
  - (2) This section does not apply so far as the credit or debit falls to be brought into account apart from this section.”
- 77 (1) Section 615 (change of accounting policy after ceasing to be party to derivative contract) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute—

“(b) section 607A (company is not, or has ceased to be, party to derivative contract) applied to the cessation, and”.
  - (3) For subsections (2) and (3) substitute—

“(2) A credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.”
  - (4) In subsection (4), for “Subsections (2) and (3) do” substitute “ Subsection (2) does ”.
  - (5) For subsection (5) substitute—

“(5) In this section “the amount outstanding in respect of the derivative contract” means—

    - (a) so much of the recognised deferred income or recognised deferred loss from the derivative contract as has not been represented by credits or debits brought into account in accordance with this Part in respect of the contract, and
    - (b) any amounts relating to the matters mentioned in section 594A(1) in respect of the derivative contract that have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and not transferred to become items of profit or loss.”

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- (6) After subsection (6) insert—
- “(7) In determining what amounts fall within subsection (5)(b) at the beginning or end of a period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous periods.
- (8) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods which differs from that mentioned in subsection (7), that different assumption applies in determining what amounts fall within subsection (5)(b) at the beginning or end of the period.”
- 78 In section 622 (contracts ceasing to be derivative contracts), in subsection (4), for “the carrying value of the contract in” substitute “ the tax-adjusted carrying value of the contract based on ”.
- 79 In section 625 (group member replacing another as party to derivative contract), in subsection (6)(b), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- 80 Omit section 629 (disapplication of section 625 where transferor party to avoidance) (which is superseded by the amendment made by paragraph 94).
- 81 In section 653 (shares issued or deferred as a result of exercise of deemed option), in subsection (2), for “carrying value” substitute “ tax-adjusted carrying value ”.
- 82 In section 654 (payment instead of disposal on exercise of deemed option), in subsection (3), in the definition of “CV”, in paragraphs (a) and (b), for “carrying value” substitute “ tax-adjusted carrying value ”.
- 83 In section 658 (chargeable gain or allowable loss treated as accruing), in subsection (5)(b), for “carrying value” substitute “ tax-adjusted carrying value ”.
- 84 In section 666 (allowable loss treated as accruing), in subsection (2), in the definition of “B”, for “carrying value” substitute “ tax-adjusted carrying value ”.
- 85 In section 671 (meaning of G, L and CV in section 670), in subsection (4), for “carrying value”, in each place, substitute “ tax-adjusted carrying value ”.
- 86 In section 673 (meaning of G, L and CV in section 672), in subsection (4), for “carrying value”, in each place, substitute “ tax-adjusted carrying value ”.
- 87 In section 675 (transfer of derivative contract at notional carrying value), in subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- 88 In section 684 (transfer of derivative contract at notional carrying value), in subsection (3), for “its carrying value in” substitute “ its tax-adjusted carrying value based on ”.
- 89 In section 689 (overview of Chapter 11 of Part 7), in subsection (2)—
- (a) omit paragraph (d) (including the “and” at the end), and
  - (b) at the end of paragraph (e) insert “and
  - (f) for rules dealing with tax avoidance arrangements, see sections 698B to 698D.”
- 90 (1) Section 690 (derivative contracts for unallowable purposes) is amended as follows.

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(2) After subsection (3) insert—

“(3A) If—

- (a) a credit brought into account for that period for the purposes of this Part by the company would (in the absence of this section) be reduced, and
- (b) the reduction represents an amount which, if it did not reduce a credit, would be brought into account as a debit in respect of that contract,

subsection (3) applies to the amount of the reduction as if it were an amount that would (in the absence of this section) be brought into account as a debit.”

(3) In subsection (6), omit the words from “which are” onwards.

91 In section 691 (meaning of “unallowable purpose”), after subsection (1) insert—

“(1A) In subsection (1)(b) “related transaction”, in relation to a derivative contract, includes anything which equates in substance to a disposal or acquisition of the kind mentioned in section 596(1) (as read with section 596(2)).”

92 In section 692 (allowance of accumulated net losses), in Step 3 in subsection (5)—

- (a) for “the amount” substitute “ so much ”, and
- (b) at the end insert “ as are referable to the unallowable purpose mentioned in subsection (1)(a) on a just and reasonable apportionment ”.

93 Omit section 698 (derivative contracts: disposals for consideration not fully recognised by accounting practice) (which is superseded by the amendment made by paragraph 94).

94 In Chapter 11 of Part 7 of CTA 2009, after section 698A insert—

*“Counteracting avoidance arrangements*

**698B Counteracting effect of avoidance arrangements**

- (1) Any derivative-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to credits and debits to be brought into account for the purposes of this Part.
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) For the meaning of “relevant avoidance arrangements” and “derivative-related tax advantage”, see section 698C.

**698C Interpretation of section 698B**

- (1) This section applies for the interpretation of section 698B (and this section).
- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

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- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a derivative-related tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any derivative-related tax advantages that would (in the absence of section 698B) arise from them can reasonably be regarded as consistent with any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied) and the policy objectives of those provisions.
- (5) A company obtains a “derivative-related tax advantage” if—
  - (a) it brings into account a debit to which it would not otherwise be entitled,
  - (b) it brings into account a debit which exceeds that to which it would otherwise be entitled,
  - (c) it avoids having to bring a credit into account,
  - (d) the amount of any credit brought into account by the company is less than it would otherwise be, or
  - (e) it brings a debit or credit into account earlier or later than it otherwise would.
- (6) In subsection (5), references to bringing a debit or credit into account are references to bringing a debit or credit into account for the purposes of this Part.

#### **698D Examples of results that may indicate exclusion not applicable**

- (1) Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a derivative-related tax advantage are not excluded by section 698C(4) from being “relevant avoidance arrangements” for the purposes of section 698B—
  - (a) the elimination or reduction, for purposes of corporation tax, of profits of a company arising from any of its derivative contracts, where for economic purposes profits, or greater profits, arise to the company from that contract;
  - (b) the creation or increase, for purposes of corporation tax, of a loss or expense arising from a derivative contract, where for economic purposes no loss or expense, or a smaller loss or expense, arises from that contract;
  - (c) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company's accounts as an item of profit or loss or be so recognised earlier;
  - (d) ensuring that a derivative contract is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements;
  - (e) enabling a company to bring into account a debit in respect of an exchange loss, in circumstances where a corresponding exchange



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gain would not give rise to a credit or would give rise to a credit of a smaller amount;

- (f) enabling a company to bring into account a debit in respect of a fair value loss in circumstances where a corresponding fair value gain would not give rise to a credit or would give rise to a credit of a smaller amount.

(2) But in each case the result concerned is only capable of indicating that section 698C(4) is not available if it is reasonable to assume that such a result was not the anticipated result when the provisions of this Part that are relevant to the arrangements were enacted

(3) In subsection (1)(f) references to a fair value gain or a fair value loss are references respectively to—

- (a) a profit to be brought into account in relation to a derivative contract where fair value accounting is used for the period in question, or
- (b) a loss to be brought into account in relation to a derivative contract where fair value accounting is used for the period in question.

(4) “Arrangements” and “derivative-related tax advantage” have the same meaning as in section 698C.”

95 For section 702 substitute—

**“702 Tax-adjusted carrying value”**

- (1) This section applies for the purposes of this Part.
- (2) “Tax-adjusted carrying value”, in relation to a contract, means the carrying value of the contract recognised for accounting purposes, except as provided by subsection (7).
- (3) For the purposes of this section the “carrying value” of the contract includes amounts recognised for accounting purposes in relation to the contract in respect of—
  - (a) accrued amounts,
  - (b) amounts paid or received in advance, or
  - (c) impairment losses (including provisions for bad or doubtful debts).
- (4) In determining the tax-adjusted carrying value of a contract in a period of account of a company, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous periods of account.
- (5) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods of account which differs from that mentioned in subsection (4), that different assumption applies in determining the tax-adjusted carrying value of the contract in the period.
- (6) In determining the tax-adjusted carrying value of a contract at a time other than the end (or beginning) of a period of account of a company, it is to be assumed that a period of account of the company had ended at the time in question.

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(7) In determining the profits and losses to be recognised in determining the tax-adjusted carrying value of the contract, the provisions specified in subsection (8) apply as they apply for the purposes of determining the credits and debits to be brought into account in accordance with this Part.

(8) Those provisions are—

- (a) section 584 (hybrid derivatives with embedded derivatives),
- (b) section 585 (loan relationships with embedded derivatives),
- (c) section 586 (other contracts with embedded derivatives),
- (d) section 597 (amounts recognised in determining profit or loss),
- (e) sections 599A and 599B (amounts not fully recognised for accounting purposes),
- (f) section 604A (amounts recognised in other comprehensive income and not transferred to profit and loss),
- (g) Chapter 5 (transactions within groups),
- (h) Chapter 9 (European cross-border transfers of business), and
- (i) Chapter 10 (European cross-border mergers).

(9) In this section “impairment loss” means a debit in respect of the impairment of a financial asset and “impairment” includes uncollectability.”

96 In section 705 (expressions relating to exchange gains and losses), in subsection (3), omit “in a case where fair value accounting is used by the company”.

97 In section 710 (other definitions)—

(a) before the definition of “bank” insert—

““accounting policy”, in relation to a company, means the principles, bases, conventions, rules and practices that the company applies in preparing and presenting its financial statements,”,

(b) for the definition of “fair value accounting” substitute—

““fair value accounting” means a basis of accounting under which—

- (a) assets and liabilities are measured in the company's balance sheet at their fair value, and
- (b) changes in the fair value of assets and liabilities are recognised as items of profit or loss,” and

(c) omit the definition of “statement of comprehensive income”.

### PART 3

#### AMENDMENTS OF TCGA 1992 RELATING TO LOAN RELATIONSHIPS

98 (1) Section 151E of TCGA 1992 (exchange gains and losses from loan relationships: regulations) is amended as follows.

(2) In subsection (1)—

- (a) for “amounts” substitute “ exchange gains or losses (as defined by section 475 of CTA 2009) ”, and

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(b) for “or (4) of that Act” substitute “ of that Act or because of regulations under section 328(4) of that Act ”.

(3) After that subsection insert—

“(1A) The regulations may make provision as to the way in which, including the currency by reference to which, the amounts to be brought into account are to be calculated.”

## PART 4

### CONSEQUENTIAL AMENDMENTS

99 (1) Schedule 4 to CTA 2009 (index of defined expressions) is amended as follows.

(2) At the appropriate place in each case insert—

“accounting policy (in Parts 5 and 6)	section 476”;
“accounting policy (in Part 7)	section 710”;
“designated fair value hedge (in Parts 5 and 6)	section 313(7)”;
“hedged item (in Parts 5 and 6)	section 313(7)”;
“hedging relationship (in Parts 5 and 6)	section 475A”;
“relevant contract (in Parts 5 and 6)	section 476(1)”;
“tax-adjusted carrying value (in Parts 5 and 6)	section 465B”;
“tax-adjusted carrying value (in Part 7)	section 702”.

(3) In the entry for “fair value (in Parts 5 and 6)”, for “313(6)” substitute “ 476(1) ”.

(4) Omit the following—

- (a) the entry for “carrying value (in Part 7)”;
- (b) the entries for “statement of comprehensive income (in Parts 5 and 6)” and “statement of comprehensive income (in Part 7)”;
- (c) the entries for “the Part 5 one-way exchange effect provisions” and “the Part 7 one-way exchange effect provisions”.

100 In Schedule 21 to FA 2009, omit paragraphs 1 to 3, 7 and 9.

## PART 5

### REPEAL OF UNCOMMENCED REPEAL PROVISIONS

101 (1) Part 21 of CTA 2009 (other general provisions) is amended as follows.

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- (2) In Schedule 2 (transitionals and savings), omit paragraphs 71 and 99 (which contain prospective repeals relating to loan relationships or derivative contracts and have never been brought into force).
- (3) In section 1325 (transitional provision and savings), in subsection (2), omit the words from “except paragraphs 71 and 99” onwards.
- (4) In section 1329 (commencement), omit subsections (3) and (4).
- (5) In Schedule 3 (repeals and revocations), omit Part 2 (prospective repeals).

## PART 6

### COMMENCEMENT AND TRANSITIONAL PROVISIONS

#### *Introductory*

102 This Part of this Schedule contains provision about the coming into force of the amendments in Parts 1 to 5 of this Schedule.

#### *Commencement: the general rule*

103 The general rule is that the amendments made by Parts 1 to 4 of this Schedule have effect in relation to accounting periods beginning on or after 1 January 2016.

104 This general rule—

- (a) does not apply in relation to the provisions dealt with by paragraphs 106 to 114, and
- (b) has effect subject to the transitional provisions in paragraphs 115 to 129.

105 Part 5 of this Schedule comes into force on the day on which this Act is passed.

#### *Commencement: sections 321, 349 and 605 of CTA 2009*

- 106 (1) Paragraphs 15 and 28 have effect in relation to loan relationships entered into by a company in an accounting period beginning on or after 1 January 2016.
- (2) Paragraph 67 has effect in relation to derivative contracts entered into by a company in an accounting period beginning on or after 1 January 2016.
- (3) In relation to loan relationships entered into by a company in an accounting period beginning before 1 January 2016, sub-paragraphs (4) to (6) apply in relation to accounting periods beginning on or after that date.
- (4) The reference in section 321(1)(b) of CTA 2009 to recognition in any of the statements mentioned in section 308(1) of that Act is to be read in relation to the company as a reference to recognition in the company's accounts for the period as an item of profit or loss or as an item of other comprehensive income.
- (5) But section 321 does not bring into account for the purposes of Part 5 of CTA 2009 any exchange gain or loss of the company so far as it is recognised in the company's statement of total recognised gains and losses, statement of recognised income and expense, statement of changes in equity or statement of income and retained earnings.

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- (6) The reference in section 349 of CTA 2009 to an amortised cost basis of accounting is to be read in relation to the company without regard to the amendment of section 313(4) of that Act made by paragraph 7(5).
- (7) In relation to derivative contracts entered into by a company in an accounting period beginning before 1 January 2016, sub-paragraphs (8) and (9) apply in relation to accounting periods beginning on or after that date.
- (8) The reference in section 605(1)(b) of CTA 2009 to recognition in any of the statements mentioned in section 597(1) of that Act is to be read in relation to the company as a reference to recognition in the company's accounts for the period as an item of profit or loss or as an item of other comprehensive income.
- (9) But section 605 does not bring into account for the purposes of Part 7 of CTA 2009 any exchange gain or loss of the company so far as it is recognised in the company's statement of total recognised gains and losses, statement of recognised income and expense, statement of changes in equity or statement of income and retained earnings.
- (10) In this paragraph “item of profit and loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.

*Commencement: insolvency, corporate rescue etc*

- 107 Paragraphs 16 to 18 have effect in relation to the release, modification or replacement of a debtor relationship of a company on or after 1 January 2015.
- 108 Paragraph 33(2) has effect in relation to the release of a debtor relationship of a company on or after the day on which this Act is passed.
- 109 Paragraphs 35 to 37 have effect where the company acquiring the rights under the loan relationship as creditor does so on or after the day on which this Act is passed.
- 110 Paragraphs 38 to 40 have effect where the companies become connected with each other on or after the day on which this Act is passed.

*Commencement: anti-avoidance provisions etc*

- 111 The following provisions have effect in relation to arrangements entered into on or after the day on which this Act is passed—
  - paragraph 20, so far as relating to the repeal of section 328(4A) of CTA 2009,
  - paragraph 21,
  - paragraph 27,
  - paragraph 45(a) and (c),
  - paragraph 51,
  - paragraph 55(d),
  - paragraph 68, so far as relating to the repeal of section 606(4C) to (4E) of CTA 2009,
  - paragraph 69,
  - paragraph 80,
  - paragraph 89(b),
  - paragraph 94, and
  - paragraph 99(4)(c).

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- 112 The following provisions—  
 paragraph 28, so far as relating to the repeal of section 349(3) of CTA 2009, and  
 paragraph 50, so far as relating to the repeal of section 454 of CTA 2009,  
 have effect where conditions A and B in section 454 of CTA 2009 were first met in  
 relation to the asset on or after the day on which this Act is passed.
- 113 The following provisions—  
 paragraph 45(b),  
 paragraph 50, so far as relating to the repeal of section 455 of CTA 2009,  
 paragraph 89(a) and  
 paragraph 93,  
 have effect in relation to disposals on or after the day on which this Act is passed.
- 114 Paragraph 48 has effect where the scheme was effected, or the arrangements were  
 made, on or after the day on which this Act is passed.

*Transitional adjustments relating to loan relationships*

- 115 (1) This paragraph applies to a loan relationship of a company if—
- (a) amounts relating to the matters mentioned in section 306A(1) of CTA 2009 (as inserted by paragraph 3) in respect of the loan relationship have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income,
  - (b) those amounts have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1 January 2016, and
  - (c) those amounts have been brought into account for corporation tax purposes in an accounting period beginning before 1 January 2016.
- (2) There is to be made an overall transitional adjustment of such amount as is just and reasonable in the circumstances having regard to the amounts which would otherwise be brought into account twice by the company for those purposes as credits or debits.
- (3) The overall transitional adjustment must be made by making transitional adjustments in accordance with paragraph 116.
- (4) In determining what amounts fall within sub-paragraph (1), it is to be assumed that the accounting policy applied in drawing up the company's accounts for the last accounting period of the company beginning before 1 January 2016 (“the pre-commencement period”) was also applied in previous accounting periods.
- (5) But if the company's accounts for the pre-commencement period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in sub-paragraph (4), that different assumption applies in determining what amounts fall within sub-paragraph (1).
- 116 (1) If paragraph 115 applies in relation to a loan relationship of a company, then for each relevant accounting period a credit or debit of an amount equal to the transitional adjustment for the period must be brought into account for the purposes of Part 5 of CTA 2009 in the same way as a credit or debit which is brought into account in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.
- (2) The relevant accounting periods are—

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- (a) the first accounting period of the company beginning on or after 1 January 2016, and
- (b) each subsequent accounting period all or part of which falls within the transitional years.
- (3) The transitional years are the 5 years beginning with the first day of the first accounting period of the company beginning on or after 1 January 2016.
- (4) The transitional adjustment for each relevant accounting period is calculated as follows.
- (5) Allocate a percentage of the overall transitional adjustment (determined under paragraph 115) to each of the 5 transitional years as follows—
- |          |     |
|----------|-----|
| 1st year | 40% |
| 2nd year | 25% |
| 3rd year | 15% |
| 4th year | 10% |
| 5th year | 10% |
- (6) If a transitional year coincides with an accounting period, the transitional adjustment for the accounting period is the amount allocated to that year.
- (7) In any other case—
- (a) apportion the amount allocated to each transitional year between accounting periods according to the number of days in the transitional year which fall within each period, and
- (b) the transitional adjustment for an accounting period is the total of the amounts apportioned to that period.
- 117 Paragraphs 115 and 116 do not require an amount to be brought into account if it has already been brought into account under regulations under—
- (a) section 151E of TCGA 1992 (exchange gains and losses from loan relationships: regulations), or
- (b) section 328 of CTA 2009 (exchange gains and losses).
- 118 (1) This paragraph applies if either of the following provisions of CTA 2009 applies in relation to the first accounting period of a company beginning on or after 1 January 2016—
- (a) section 316 (change of accounting policy involving change of value), as substituted by paragraph 10, and
- (b) section 318 (change of accounting policy following cessation of loan relationship), as amended by paragraph 12.
- (2) The overall transitional adjustment required by paragraphs 115 and 116 is to be calculated and applied before calculating any credit or debit required by section 316 or 318 of CTA 2009.
- 119 (1) This paragraph applies if—
- (a) an overall transitional adjustment is required by paragraph 115 in respect of a loan relationship of a company, and
- (b) before the end of the 5 years mentioned in paragraph 116(3), the company—

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- (i) ceases to be within the charge to corporation tax, or
  - (ii) starts to be wound up.
- (2) The company must bring into account for the purposes of Part 5 of CTA 2009 in the accounting period ending with the event within sub-paragraph (1)(b) a credit or debit of an amount equal to so much of the overall transitional adjustment as has not previously been brought into account.
- (3) For the purposes of this paragraph a company starts to be wound up—
- (a) when the company passes a resolution for the winding up of the company,
  - (b) when a petition for the winding up of the company is presented, if the company has not already passed such a resolution and a winding up order is made on the petition, or
  - (c) when an act is done in relation to the company for a similar purpose, if the winding up is not under the Insolvency Act 1986.

*Transitional adjustments relating to derivative contracts*

- 120 (1) This paragraph applies to a derivative contract of a company if—
- (a) amounts relating to the matters mentioned in section 594A(1) of CTA 2009 (as inserted by paragraph 61) in respect of the derivative contract have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income,
  - (b) those amounts have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1 January 2016, and
  - (c) those amounts have been brought into account for corporation tax purposes in an accounting period beginning before 1 January 2016.
- (2) There is to be made an overall transitional adjustment of such amount as is just and reasonable in the circumstances having regard to the amounts which would otherwise be brought into account twice by the company for those purposes as credits or debits.
- (3) The overall transitional adjustment must be made by making transitional adjustments in accordance with paragraph 121.
- (4) In determining what amounts fall within sub-paragraph (1), it is to be assumed that the accounting policy applied in drawing up the company's accounts for the last accounting period of the company beginning before 1 January 2016 (“the pre-commencement period”) was also applied in previous accounting periods.
- (5) But if the company's accounts for the pre-commencement period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in sub-paragraph (4), that different assumption applies in determining what amounts fall within sub-paragraph (1).
- 121 (1) If paragraph 120 applies in relation to a derivative contract of a company, then for each relevant accounting period a credit or debit of an amount equal to the transitional adjustment for the period must be brought into account for the purposes of Part 7 of CTA 2009 in the same way as a credit or debit which is brought into account in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.
- (2) The relevant accounting periods are—



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- (a) the first accounting period of the company beginning on or after 1 January 2016, and
- (b) each subsequent accounting period all or part of which falls within the transitional years.
- (3) The transitional years are the 5 years beginning with the first day of the first accounting period of the company beginning on or after 1 January 2016.
- (4) The transitional adjustment for each relevant accounting period is calculated as follows.
- (5) Allocate a percentage of the overall transitional adjustment (determined under paragraph 120) to each of the 5 transitional years as follows—
- |          |     |
|----------|-----|
| 1st year | 40% |
| 2nd year | 25% |
| 3rd year | 15% |
| 4th year | 10% |
| 5th year | 10% |
- (6) If a transitional year coincides with an accounting period, the transitional adjustment for the accounting period is the amount allocated to that year.
- (7) In any other case—
- (a) apportion the amount allocated to each transitional year between accounting periods according to the number of days in the transitional year which fall within each period, and
- (b) the transitional adjustment for an accounting period is the total of the amounts apportioned to that period.
- 122 Paragraphs 120 and 121 do not require an amount to be brought into account if it has already been brought into account under regulations under section 606 of CTA 2009 (exchange gains and losses).
- 123 (1) This paragraph applies if either of the following provisions of CTA 2009 applies in relation to the first accounting period of a company beginning on or after 1 January 2016—
- (a) section 614 (change of accounting policy involving change of value), as substituted by paragraph 76, and
- (b) section 615 (change of accounting policy after ceasing to be a party to derivative contract), as amended by paragraph 77.
- (2) The overall transitional adjustment required by paragraphs 120 and 121 is to be calculated and applied before calculating any credit or debit required by section 614 or 615 of CTA 2009.
- 124 (1) This paragraph applies if—
- (a) an overall transitional adjustment is required by paragraph 120 in respect of a derivative contract of a company, and
- (b) before the end of the 5 years mentioned in paragraph 121(3), the company—
- (i) ceases to be within the charge to corporation tax, or
- (ii) starts to be wound up.

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- (2) The company must bring into account for the purposes of Part 5 of CTA 2009 in the accounting period ending with the event within sub-paragraph (1)(b) a credit or debit of an amount equal to so much of the overall transitional adjustment as has not previously been brought into account.
- (3) For the purposes of this paragraph a company starts to be wound up—
- (a) when the company passes a resolution for the winding up of the company,
  - (b) when a petition for the winding up of the company is presented, if the company has not already passed such a resolution and a winding up order is made on the petition, or
  - (c) when an act is done in relation to the company for a similar purpose, if the winding up is not under the Insolvency Act 1986.

*Straddling accounting periods treated as split for certain purposes*

- 125 If a company has an accounting period which begins before and ends on or after 1 January 2016 (“the straddling period”), so much of the straddling period as falls before that date, and so much of that period as falls on or after that date, are treated for the purposes of each of the following provisions as separate accounting periods—
- paragraph 20(4), so far as relating to section 328(3C) of CTA 2009, and
  - paragraph 68(4), so far as relating to section 606(3C) of that Act.

*Transitional provision relating to abolition of “fairly represents” test*

- 126 If in an accounting period beginning before 1 January 2016, subsection (3) of section 307 of CTA 2009 prevents a company from bringing into account for the purposes of Part 5 of that Act a credit or debit that it would otherwise bring into account, no debit or credit is to be brought into account for those purposes under section 307 as amended by paragraph 4 in an accounting period beginning on or after 1 January 2016 to the extent that the debit or credit represents a reversal (in whole or part) of the debit or credit previously excluded.
- 127 If in an accounting period beginning before 1 January 2016, subsection (3) of section 595 of CTA 2009 prevents a company from bringing into account for the purposes of Part 7 of that Act a credit or debit that it would otherwise bring into account, no debit or credit is to be brought into account for those purposes under section 595 as amended by paragraph 62 in an accounting period beginning on or after 1 January 2016 to the extent that the debit or credit represents a reversal (in whole or part) of the debit or credit previously excluded.

*Transitional provision relating to fixed capital asset or project*

- 128 If in an accounting period of a company beginning before 1 January 2016 credits or debits relating to a fixed capital asset or project were as a result of section 320 of CTA 2009 brought into account for the purposes of Part 5 of that Act, the condition in subsection (1)(c) of section 320 as amended by paragraph 13 is to be taken to be met in relation to that fixed capital asset or project in subsequent accounting periods.
- 129 If in an accounting period of a company beginning before 1 January 2016 credits or debits relating to a fixed capital asset or project were as a result of section 604 of CTA 2009 brought into account for the purposes of Part 7 of that Act, the condition

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in subsection (1)(c) of section 604 as amended by paragraph 65 is to be taken to be met in relation to that fixed capital asset or project in subsequent accounting periods.

## SCHEDULE 8

Section 51

### ENFORCEMENT BY DEDUCTION FROM ACCOUNTS

#### PART 1

##### SCHEME FOR ENFORCEMENT BY DEDUCTION FROM ACCOUNTS

###### *Introduction*

- 1 This Part of this Schedule contains provision about the collection of amounts due and payable to the Commissioners by the making of deductions from accounts held with deposit-takers.

###### *“Relevant sum”*

- 2 (1) In this Part of this Schedule “relevant sum”, in relation to a person, means a sum that is due and payable by the person to the Commissioners—
- (a) under or by virtue of an enactment, or
  - (b) under a contract settlement,
- and in relation to which Conditions A to C are met.
- (2) Condition A is that the sum is at least £1,000.
- (3) Condition B is that the sum is—
- (a) an established debt (see sub-paragraph (5)),
  - (b) due under section 223 of, or paragraph 6 of Schedule 32 to, FA 2014 (accelerated payment notice or partner payment notice), or
  - (c) the disputed tax specified in a notice under section 221(2)(b) of FA 2014 (accelerated payment of tax: notice given pending appeal).
- (4) Condition C is that HMRC is satisfied that the person is aware that the sum is due and payable by the person to the Commissioners.
- (5) A sum that is due and payable to the Commissioners is an “established debt” if there is no possibility that the sum, or any part of it, will cease to be due and payable to the Commissioners on appeal.
- (6) For the purposes of sub-paragraph (5) it does not matter whether the reason that there is no such possibility is—
- (a) that there is no right of appeal in relation to the sum,
  - (b) that a period for bringing an appeal has expired without an appeal having been brought, or
  - (c) that an appeal which was brought has been finally determined or withdrawn;
- and any power to grant permission to appeal out of time is to be disregarded.

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*Information notice*

- 3 (1) This paragraph applies if it appears to HMRC that—
- (a) a person has failed to pay a relevant sum, and
  - (b) that person holds one or more accounts with a deposit-taker.
- (2) HMRC may give the deposit-taker a notice under this paragraph (an “information notice”) requiring the deposit-taker to provide HMRC with—
- (a) prescribed information about accounts held by the person with the deposit-taker,
  - (b) in relation to any joint account held by the person with the deposit-taker, prescribed information about the other holder or holders of the account, and
  - (c) any other prescribed information.
- (3) HMRC may exercise the power under sub-paragraph (2) only for the purposes of determining whether to give a hold notice to the deposit-taker in respect of the person concerned (see paragraph 4).
- (4) Where a deposit-taker is given an information notice, it must comply with the notice as soon as reasonably practicable and, in any event, within the period of 10 working days beginning with the day on which the notice is given to it.
- (5) An information notice must explain the effect of—
- (a) sub-paragraph (4), and
  - (b) paragraph 14 (penalties).

*Hold notice*

- 4 (1) If it appears to HMRC that—
- (a) a person (“P”) has failed to pay a relevant sum, and
  - (b) P holds one or more accounts with a deposit-taker,
- HMRC may give the deposit-taker a notice under this paragraph (a “hold notice”).
- (2) The hold notice must—
- (a) specify P's name and last known address,
  - (b) specify as the “specified amount” an amount that meets the conditions in sub-paragraph (4),
  - (c) specify as the “safeguarded amount” an amount that meets the requirements set out in sub-paragraphs (6) to (8),
  - (d) set out any rules which are to apply for the purposes of paragraph 7(5)(b) (priority of accounts subject to a hold notice),
  - (e) explain the effect of—
    - (i) paragraphs 6 to 13 (effect of hold notice, duty to notify account holders etc),
    - (ii) paragraph 14 (penalties), and
    - (iii) any regulations under paragraph 20(2)(c) or (d) (powers to restrict the accounts or amounts in relation to which a hold notice may have effect, in addition to the powers to make provision in the hold notice under sub-paragraph (3)(b) and (c)), and
  - (f) contain a statement about HMRC's compliance with paragraph 5 in relation to the notice.

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For provision about the particular relevant sums to which a hold notice relates see paragraph 8(6)(a)(ii) and (7) (notice to be given by HMRC to P).

- (3) The hold notice may—
- (a) specify any other information which HMRC considers might assist the deposit-taker in identifying accounts which P holds with it;
  - (b) specify an account, or description of account, which is to be treated for the purposes of the hold notice and this Part of this Schedule as not being an account held by P with the deposit-taker;
  - (c) require that an amount specified in the notice is to be treated for the purposes of the hold notice and this Part of this Schedule as if it were not an amount standing to the credit of a specified account held by P.
- (4) The amount specified as the specified amount in the hold notice (“the current hold notice”) must not exceed so much of the notified sum (see paragraph 8(6) to (8)) as remains after deducting—
- (a) the amount specified as the “specified amount” in any hold notice which relates to the same debts as the current hold notice (see sub-paragraph (5)) and is given to another deposit-taker on the same day as that notice, and
  - (b) the amount specified as the “specified amount” in any hold notice which relates to the same debts as the current hold notice and is given to a deposit-taker on an earlier day, (unless HMRC has received a notification under paragraph 8(4) in relation to that earlier hold notice).
- (5) For the purposes of this paragraph, any two hold notices given in respect of the same person “relate to the same debts” if at least one relevant sum specified in relation to one of those notices by virtue of paragraph 8(7)(a) is the same debt as a relevant sum so specified in relation to the other notice.
- (6) The amount specified in the hold notice as the safeguarded amount must be at least £5,000; but this is qualified by sub-paragraphs (7) and (8).
- (7) The safeguarded amount must be nil if—
- (a) HMRC has previously given a deposit-taker a hold notice (“the earlier hold notice”) relating to the same debts as the hold notice mentioned in sub-paragraph (2) (“the new hold notice”), and
  - (b) within the period of 30 days ending with the day on which the new hold notice is given to the deposit-taker, HMRC has received a notice under paragraph 8 which states that there is a held amount as a result of the earlier hold notice.
- (8) HMRC may (in a case not falling within sub-paragraph (7)) determine that an amount less than £5,000 (which may be nil) is to be the safeguarded amount if HMRC considers it appropriate to do so having regard to the value (or aggregate value) in sterling at the relevant time of any amounts which at that time stand to the credit of a qualifying non-sterling account or accounts.
- (9) In sub-paragraph (8) “qualifying non-sterling account” means an account which, but for paragraph 6(6)(b) (account not denominated in sterling), would be a relevant account in relation to the hold notice.
- (10) For the purposes of sub-paragraph (8), the value in sterling of any amount is to be determined in the prescribed manner; and regulations for the purposes of this sub-

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paragraph may specify circumstances in which the exchange rate is to be determined in accordance with a notice published by the Commissioners.

- (11) In sub-paragraph (8) “the relevant time” means the time when the Commissioners determine the amount to be specified as the “safeguarded amount” under sub-paragraph (2)(c).
- (12) HMRC must not on any one day give to a single deposit-taker more than one hold notice relating to the same debts.

*Persons at a particular disadvantage in dealing with Revenue and Customs affairs*

- 5 (1) Before deciding whether or not to exercise the power under paragraph 3(2) or 4(1) in relation to a person, HMRC must consider whether or not, to the best of HMRC's knowledge, there are any matters as a result of which the person is, or may be, at a particular disadvantage in dealing with the person's Revenue and Customs affairs.
- (2) If HMRC determines that there are any such matters, HMRC must take those matters into account in deciding whether or not to exercise the power concerned in relation to the person.
- (3) The Commissioners must publish guidance as to the factors which are relevant to determining whether or not a person is at a particular disadvantage in dealing with the person's Revenue and Customs affairs for the purposes of this Schedule.
- (4) In this paragraph “Revenue and Customs affairs”, in relation to a person by whom a relevant sum is payable, means any affairs of the person which relate to the relevant sum.

*Effect of hold notice*

- 6 (1) A deposit-taker to whom a hold notice is given under paragraph 4 must, for each relevant account (see sub-paragraph (6))—
  - (a) determine whether or not there is a held amount (greater than nil) in relation to that account, and
  - (b) if there is such a held amount in relation to that account, take the first or second type of action (see sub-paragraph (3)) in respect of that account.

See paragraph 7 for how to determine the held amount in relation to any relevant account.

- (2) The deposit-taker must comply with sub-paragraph (1) as soon as is reasonably practicable and, in any event, within the period of 5 working days beginning with the day on which the hold notice is given.
- (3) In relation to each affected account (see sub-paragraph (7))—
  - (a) the first type of action is to put in place such arrangements as are necessary to ensure that the deposit-taker does not do anything, or permit anything to be done, that would reduce the amount standing to the credit of that account below the held amount in relation to that account;
  - (b) the second type of action is to—
    - (i) transfer an amount equal to the held amount from the affected account into an account created by the deposit-taker for the sole purpose of containing that transferred amount (a “suspense account”), and

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- (ii) put in place such arrangements as are necessary to ensure that the deposit-taker does not do anything, or permit anything to be done, that would reduce the amount standing to the credit of that suspense account below the amount that is the held amount in relation to the affected account.
- (4) The deposit-taker must maintain any arrangements made under sub-paragraph (3) until the hold notice ceases to be in force.
- (5) A hold notice ceases to be in force when—
  - (a) the deposit-taker is given a notice cancelling it under paragraph 9 or 11 or the hold notice is cancelled under paragraph 12, or
  - (b) the deposit-taker is given a deduction notice in relation to the hold notice (see paragraph 13).
- (6) In this Part of this Schedule “relevant account”, in relation to a hold notice, means an account held with the deposit-taker by P, but not including—
  - (a) an account excluded under paragraph 4(3)(b) or by regulations under paragraph 20(2)(c),
  - (b) an account not denominated in sterling, or
  - (c) any suspense account.
- (7) For the purposes of this Part of this Schedule, a relevant account is an “affected account” if, as a result of the hold notice, an amount is the held amount in relation to that account (see paragraph 7(1) and (2)).

#### *Determination of held amounts*

- 7 (1) If there is only one relevant account (see paragraph 6(6)) in existence at the time the deposit-taker complies with paragraph 6(1), “the held amount” in relation to that account is—
- (a) if the available amount in respect of the account (see sub-paragraph (3)) exceeds the safeguarded amount, so much of the amount of the excess as does not exceed the specified amount, and
  - (b) if the available amount does not exceed the safeguarded amount, nil.

For the meaning of “the safeguarded amount” and “the specified amount” see paragraph 23(1).

- (2) If there is more than one relevant account in existence at the time the deposit-taker complies with paragraph 6(1), “the held amount” in relation to each relevant account is determined as follows—

*Step 1* Determine the available amount in respect of each relevant account.

*Step 2* Determine the total of the available amounts in respect of all of the relevant accounts. If that total does not exceed the safeguarded amount, the held amount in relation to each relevant account is nil (and no further steps are to be taken). In any other case, go to Step 3.

*Step 3* Match the safeguarded amount against the available amounts in respect of the relevant accounts, taking those accounts in reverse priority order (see sub-paragraph (6)).

*Step 4* Match the specified amount against what remains of the available amounts in respect of the relevant accounts by taking each relevant account in priority order (see sub-paragraph (5)) and matching the specified amount (or,

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as the case may be, what remains of the specified amount) against the available amount for each account until either—

- (a) the specified amount has been fully matched, or
- (b) what remains of the available amounts is exhausted.

Where this sub-paragraph applies, “the held amount”, in relation to a relevant account—

- (i) is so much of the amount standing to the credit of the account as is matched against the specified amount under Step 4, and
- (ii) accordingly, is nil if no amount standing to the credit of the account is so matched against the specified amount.

- (3) In this paragraph “the available amount” means—
- (a) in the case of an account other than a joint account, the amount standing to the credit of that account at the time the deposit-taker complies with paragraph 6(1), or
  - (b) in the case of a joint account, the appropriate fraction of the amount standing to the credit of that account at that time;
- so, if no amount stands to the credit of an account at that time, “the available amount” is nil.

- (4) In this paragraph “the appropriate fraction”, in relation to a joint account, means—

$$\frac{1}{N}$$

where N is the number of persons who together hold the joint account.

- (5) In this paragraph “priority order” means such order as the deposit-taker considers appropriate, but the deposit-taker must ensure—
- (a) that accounts other than joint accounts always have a higher priority than joint accounts, and
  - (b) subject to paragraph (a), that any rule set out in the hold notice under paragraph 4(2)(d) is adhered to.
- (6) In this paragraph “reverse priority order” means the reverse of the order determined under sub-paragraph (5).
- (7) In this paragraph references to an amount standing to the credit of an account are to be read subject to any regulations under paragraph 20(2)(d).

*Duty to notify HMRC and account holders etc*

- 8 (1) This paragraph applies where a deposit-taker receives a hold notice.
- (2) If the deposit-taker determines that there are one or more affected accounts (see paragraph 6(7)) as a result of the hold notice, the deposit-taker must give HMRC a notice which sets out—
- (a) prescribed information about each of the affected accounts held by P,
  - (b) the amount of the held amount in relation to each such account,
  - (c) if any of the affected accounts is a joint account held by P and one or more other persons, prescribed information about the other person or persons, and



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- (d) any other prescribed information.
- (3) The notice under sub-paragraph (2) must be given within the period of 5 working days beginning with the day on which the deposit-taker complies with paragraph 6(1).
- (4) If the deposit-taker determines that there are no affected accounts as a result of the hold notice, it must give HMRC a notice which—
  - (a) states that this is the case, and
  - (b) sets out any other prescribed information.
- (5) The notice under sub-paragraph (4) must be given within the period of 5 working days beginning with the day on which the deposit-taker makes that determination.
- (6) If HMRC receives a notice under sub-paragraph (2) it must as soon as reasonably practicable—
  - (a) give P—
    - (i) a copy of the hold notice, and
    - (ii) a notice under sub-paragraph (7), and
  - (b) in relation to each affected account, give a notice to each person within sub-paragraph (9) explaining that a hold notice has been given in respect of the account, the effect of the hold notice so far as it relates to the account and the effect of paragraphs 10 to 12.
- (7) A notice under this sub-paragraph must comply with the following requirements—
  - (a) the notice must specify the particular relevant sums (see paragraph 2) to which the hold notice relates;
  - (b) the details given for that purpose must include a statement, to the best of HMRC's knowledge, of the amount of each of those sums (that is, the unpaid amount) at the date of the notice;
  - (c) the notice must state the total of the amounts stated under paragraph (b) (if more than one), and
  - (d) the notice must state that the notified sum for the purposes of the hold notice (see paragraph 4(4)) is equal to—
    - (i) the total amount specified under paragraph (c) or,
    - (ii) if paragraph (c) is not applicable, the amount specified under paragraph (b) as the amount of the relevant sum to which the hold notice relates.
- (8) In this Part of this Schedule “the notified sum”, in relation to a hold notice, means the amount identified as such (or that is to be identified as such) in the notice under sub-paragraph (7).
- (9) The persons mentioned in sub-paragraph (6)(b) are—
  - (a) in the case of a joint account, any holder of the account other than P, and
  - (b) any person (not falling within paragraph (a)) who is an interested third party in relation to the affected account,in respect of whom prescribed information has been provided under sub-paragraph (2)(c) or sufficient information has otherwise been given in the notice under sub-paragraph (2) to enable HMRC to give a notice.
- (10) After the deposit-taker has complied with paragraph 6(1), the deposit-taker may, in relation to any affected account, give a notice to—

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- (a) P,
- (b) if the account is a joint account, any other holder of the account, and
- (c) any person (not falling within paragraph (b)) who is an interested third party in relation to the account,

which states that a hold notice has been received by the deposit-taker in respect of the account and the effect of that notice so far as it relates to that account.

- (11) In this Part of this Schedule “interested third party”, in relation to a relevant account, means a person other than P who has a beneficial interest in—
- (a) an amount standing to the credit of the account, or
  - (b) an amount which has been transferred from that account to a suspense account.
- (12) But, in relation to a hold notice, an interest which comes into existence after any arrangements under paragraph 6(3) have been put into place is treated as not being a beneficial interest for the purposes of sub-paragraph (11).

*Cancellation or variation of effects of hold notice*

- 9 (1) Where a hold notice has been given to a deposit-taker HMRC may, by a notice given to the deposit-taker (a “notice of cancellation or variation”)—
- (a) cancel the hold notice,
  - (b) cancel the effect of the hold notice in relation to one or more accounts, or
  - (c) cancel the effect of the hold notice in relation to any part of the held amount standing to the credit of a particular account or accounts.

In this sub-paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).

- (2) Where HMRC gives a notice under sub-paragraph (1) it must give a copy of that notice to—
- (a) P, and
  - (b) any other person who HMRC considers is affected by the giving of the notice of cancellation or variation and is—
    - (i) a person who holds a relevant account of which P is also a holder and in respect of whom prescribed information is provided under paragraph 8(2)(c), or
    - (ii) an interested third party in relation to a relevant account in respect of whom sufficient information has been given in the notice under paragraph 8(2) to enable HMRC to give a notice.
- (3) Where the deposit-taker is given a notice under sub-paragraph (1), it must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given—
- (a) if the notice is given under sub-paragraph (1)(a), cancel the arrangements made under paragraph 6(3) as a result of the notice, and
  - (b) if the notice is given under sub-paragraph (1)(b) or (c), make such adjustments to those arrangements as are necessary to give effect to the notice.

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*Making objections to hold notice*

- 10 (1) Where a hold notice is given to a deposit-taker, a person within sub-paragraph (2) may by a notice given to HMRC (a “notice of objection”) object against the hold notice.
- (2) The persons who may object are—
- (a) P,
  - (b) any interested third party in relation to an affected account, and
  - (c) any person (not falling within paragraph (a) or (b)) who is a holder of an affected account which is a joint account,
- but only P may object on the ground in sub-paragraph (3)(a).
- (3) An objection may only be made on one or more of the following grounds—
- (a) that the debts to which the hold notice relates (see paragraph 8(7)(a)) have been wholly or partly paid,
  - (b) that at the time when the hold notice was given, either there was no sum that was a relevant sum in relation to P or P did not hold any account with the deposit-taker,
  - (c) that the hold notice is causing or will cause exceptional hardship to the person making the objection or another person, or
  - (d) that there is an interested third party in relation to one or more of the affected accounts.
- (4) A notice of objection must state the grounds of the objection.
- (5) Objections under this paragraph may only be made within the period of 30 days beginning with—
- (a) in the case of—
    - (i) P, or
    - (ii) a person within sub-paragraph (2)(b) or (c) who has not been given a notice under paragraph 8(6)(b),the day on which a copy of the hold notice is given to P under paragraph 8(6)(a), and
  - (b) in the case of a person given a notice under paragraph 8(6)(b), the day on which that notice is given.
- (6) Sub-paragraph (5) does not apply if HMRC agree to the notice of objection being given after the end of the period mentioned in that sub-paragraph.
- (7) HMRC must agree to a notice of objection being given after the end of that period if the following conditions are met—
- (a) the person seeking to make the objection has made a request in writing to HMRC to agree to the notice of objection being given;
  - (b) HMRC is satisfied that there was reasonable excuse for not giving the notice before the relevant time limit, and
  - (c) HMRC is satisfied that the person complied with paragraph (a) without unreasonable delay after the reasonable excuse ceased.
- (8) If a request of the kind referred to in sub-paragraph (7)(a) is made, HMRC must by a notice inform the person making the request whether or not HMRC agrees to the request.

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- (9) Nothing in Part 5 of TMA 1970 (appeals and other proceedings) applies to an objection under this paragraph.

*Consideration of objections*

- 11 (1) HMRC must consider any objections made under paragraph 10 within 30 working days of being given the notice of objection.
- (2) Having considered the objections, HMRC must decide whether—
- (a) to cancel the hold notice,
  - (b) to cancel the effect of the hold notice in relation to the held amount, or any part of the held amount, in respect of a particular account or accounts, or
  - (c) to dismiss the objection.
- (3) HMRC must give a notice stating its decision to—
- (a) P,
  - (b) each person other than P who objected, and
  - (c) any other person who HMRC considers is affected by the decision and is—
    - (i) a person who holds a relevant account of which P is also a holder and in respect of whom prescribed information is provided under paragraph 8(2)(c), or
    - (ii) an interested third party in relation to a relevant account in respect of whom sufficient information has been given in the notice under paragraph 8(2) to enable HMRC to give a notice.
- (4) HMRC must, by a notice to the deposit-taker—
- (a) if it makes a decision under sub-paragraph (2)(a), cancel the hold notice;
  - (b) if it makes a decision under sub-paragraph (2)(b), cancel the effect of the hold notice in relation to the accounts or amounts in question.
- (5) HMRC must give each person to whom HMRC is required to give a notice under sub-paragraph (3) a copy of any notice given to the deposit-taker under sub-paragraph (4).
- (6) Where the deposit-taker is given a notice under sub-paragraph (4), it must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given—
- (a) if the notice is given under sub-paragraph (4)(a), cancel the arrangements mentioned in paragraph 6(3), or
  - (b) if the notice is given under sub-paragraph (4)(b), make such adjustments to those arrangements as are necessary to give effect to the notice.
- (7) In this paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).

*Appeals*

- 12 (1) Where HMRC makes a decision under paragraph (b) or (c) of paragraph 11(2), a person within sub-paragraph (2) may appeal against the hold notice.
- (2) The persons who may appeal are—
- (a) P,
  - (b) any interested third party in relation to an affected account, and

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- (c) any person not falling within paragraph (a) or (b) who is a holder of an affected account which is a joint account.
- (3) An appeal may only be made on one or more of the grounds set out in paragraph 10(3) (and for this purpose the reference in paragraph 10(3)(c) to “the objection” is to be read as a reference to the appeal).
  - (4) An appeal under sub-paragraph (1) must be made—
    - (a) in England and Wales, to the county court, and
    - (b) in Northern Ireland, to a county court.
  - (5) An appeal under this paragraph may only be made within the period of 30 days beginning—
    - (a) in the case of a person given a notice of HMRC's decision under paragraph 11(3), with the day on which that notice is given to that person, and
    - (b) in the case of any person within sub-paragraph (2)(b) or (c) to whom such a notice has not been given, the day on which P is given such a notice.
  - (6) A notice of appeal must state the grounds of appeal.
  - (7) On an appeal under this paragraph, the court may—
    - (a) cancel the hold notice,
    - (b) cancel the effect of the hold notice in relation to the held amount, or any part of the held amount, in respect of a particular account or accounts, or
    - (c) dismiss the appeal.
  - (8) Where the deposit-taker is served with an order made by the court under sub-paragraph (7)(a) or (b), the deposit-taker must as soon as reasonably practicable and, in any event, within the period of 5 working days beginning with the day the notice is given take such steps as are necessary to give effect to the order.
  - (9) Where an appeal on the ground that the hold notice is causing or will cause the person making the appeal or another person exceptional hardship (or a further appeal following such an appeal) is pending, the court to which the appeal is made may, on an application made by the person who made the appeal—
    - (a) suspend the effect of the hold notice if adequate security is provided in respect of so much of the notified sum as remains unpaid,
    - (b) suspend the effect of the hold notice in relation to a particular account if adequate security is provided in respect of the held amount in relation to that account, or
    - (c) suspend the effect of the hold notice in relation to any part of the held amount standing to the credit of a particular account, if adequate security is provided in respect of that part.
  - (10) In this paragraph references to the effect of a hold notice are to its effect by virtue of paragraph 6(4).
  - (11) Nothing in Part 5 of TMA 1970 (appeals and other proceedings) applies to an appeal under this paragraph.

#### *Deduction notice*

- 13 (1) If it appears to HMRC that a person in respect of whom a hold notice given to a deposit-taker is in force—

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- (a) has failed to pay a relevant sum, and
- (b) holds an account (or more than one account) with the deposit-taker in respect of which there is a held amount in relation to that sum,

HMRC may give the deposit-taker a deduction notice in respect of that person.

- (2) A “deduction notice” is a notice which—
  - (a) specifies the name of the person concerned,
  - (b) specifies one or more affected accounts held by that person with the deposit-taker, and
  - (c) in relation to each such specified account requires the deposit-taker to deduct and pay a qualifying amount (see sub-paragraph (6)) to the Commissioners by a day specified in the notice.
- (3) Where a deduction notice specifies a particular affected account—
  - (a) the deduction required to be made in relation to that account by virtue of sub-paragraph (2)(c) must be made from the appropriate account, that is to say—
    - (i) if the deposit-taker has by virtue of the hold notice transferred an amount from the specified account into a suspense account, that suspense account, or
    - (ii) otherwise, the specified account, and
  - (b) the deposit-taker must not during the period in which the deduction notice is in force do anything, or permit anything to be done (except in accordance with paragraph (a)) that would reduce the amount standing to the credit of the appropriate account below the balance required for the purpose of making that deduction.
- (4) A deduction notice must explain the effect of sub-paragraph (3)(b) and paragraph 14 (penalties).
- (5) A deduction notice may not be given in respect of an account unless—
  - (a) the period for making an objection under paragraph 10 has expired and either no objections were made or any objection made has been decided or withdrawn, and
  - (b) if objections were made and decided, the period for appealing under paragraph 12 has expired and any appeal or further appeal has been finally determined.
- (6) In this paragraph “qualifying amount”, in relation to an affected account, means an amount not exceeding the held amount in relation to that account (as modified, where applicable, under paragraph 9(3)(b), 11(6)(b) or 12(7)(b)).
- (7) The total of the qualifying amounts specified in the deduction notice must not exceed the unpaid amount of the notified sum (see paragraph 8(8)).
- (8) HMRC must—
  - (a) give a copy of the deduction notice to the person in respect of whom it is given, and
  - (b) in the case of each account in respect of which the notice is given, give a notice to each person within sub-paragraph (9) explaining that a deduction notice has been given in respect of that account and the effect of the deduction notice so far as it relates to that account.
- (9) The persons mentioned in sub-paragraph (8)(b) are—

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- (a) if the account is a joint account, each person other than P who is a holder of the account, and
  - (b) any person (not falling within paragraph (a))—
    - (i) who is an interested third party in relation to the account whom HMRC knows will be affected by the deduction notice, and
    - (ii) about whom HMRC has sufficient information to enable it to give the notice under sub-paragraph (8)(b).
- (10) HMRC may, by a notice given to the deposit-taker, amend or cancel the deduction notice, and where it does so it must—
- (a) give a copy of the notice under this sub-paragraph to the person in respect of whom the deduction notice was given, and
  - (b) in the case of each account affected by the amendment or cancellation, give a notice to each person within sub-paragraph (9) explaining the effect of the amendment or cancellation so far as it relates to that account.
- (11) The deduction notice—
- (a) comes into force at the time it is given to the deposit-taker, and
  - (b) ceases to be in force at the time—
    - (i) the deposit-taker is given a notice cancelling it under sub-paragraph (10), or
    - (ii) the deposit-taker makes the final payment required by virtue of sub-paragraph (2)(c).

#### *Penalties*

- 14 (1) This paragraph applies to a deposit-taker who—
- (a) fails to comply with an information notice,
  - (b) fails to comply with a hold notice or a deduction notice,
  - (c) fails to comply with an obligation under paragraph 8(2) in accordance with paragraph 8(3) (obligation to notify HMRC of effects of hold notice),
  - (d) fails to comply with an obligation under paragraph 8(4) in accordance with paragraph 8(5) (obligation to notify HMRC if no affected accounts),
  - (e) fails to comply with an obligation under paragraph 9(3) (obligation to cancel or modify effects of hold notice),
  - (f) fails to comply with an obligation under paragraph 11(6) (obligation to cancel or adjust arrangements to give effect to HMRC's decision of objection), or
  - (g) following receipt of an information notice or hold notice in relation to an account or accounts held with the deposit-taker by a person (“the affected person”), makes a disclosure of information to the affected person or any other person in circumstances where that disclosure is likely to prejudice HMRC's ability to use the provisions of this Part of this Schedule to recover a relevant sum owed by the affected person.
- (2) In sub-paragraph (1)(g), the reference to a disclosure of information does not include the giving of a notice in accordance with paragraph 8(10) to the affected person in respect of a hold notice.
- (3) The deposit-taker is liable to a penalty of £300.

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- (4) If a failure within sub-paragraph (1)(a) to (f) continues after the day on which notice is given under paragraph 15(1) of a penalty in respect of the failure, the deposit-taker is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure continues.
- (5) A failure by a deposit-taker to do anything required to be done within a limited period of time does not give rise to liability to a penalty under this paragraph if the deposit-taker did it within such further time, if any, as HMRC may have allowed.
- (6) Liability to a penalty under this paragraph does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure or (as the case may be) disclosure.
- (7) For the purposes of this paragraph—
  - (a) where the deposit-taker relies on any other person to do anything, that is not a reasonable excuse unless the deposit-taker took reasonable care to avoid the failure or disclosure, and
  - (b) where the deposit-taker had a reasonable excuse for the failure but the excuse has ceased, the deposit-taker is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

#### *Assessment of penalty*

- 15 (1) Where a deposit-taker becomes liable to a penalty under paragraph 14—
  - (a) HMRC must assess the penalty, and
  - (b) if HMRC does so, it must notify the deposit-taker in writing.
- (2) An assessment of a penalty by virtue of paragraph (a) of paragraph 14(1) must be made within the period of 12 months beginning with the day on which the deposit-taker becomes liable to the penalty.
- (3) An assessment of a penalty under any of paragraphs (b) to (g) of paragraph 14(1) must be made within the period of 12 months beginning with the latest of the following—
  - (a) the day on which the deposit-taker became liable to the penalty,
  - (b) the end of the period in which notice of an appeal in respect of the hold notice could have been given, and
  - (c) if notice of such an appeal is given, the day on which the appeal is finally determined or withdrawn.

#### *Appeal against penalty*

- 16 (1) A deposit-taker may appeal against—
  - (a) a decision that a penalty is payable by the deposit-taker under paragraph 14, or
  - (b) a decision as to the amount of such a penalty.
- (2) Notice of an appeal must be given to HMRC before the end of the period of 30 days beginning with the day on which the notification under paragraph 15 was given.
- (3) Notice of an appeal must state the grounds of appeal.



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- (4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal (in accordance with Part 5 of TMA 1970: see below) the tribunal may confirm or cancel the decision.
- (5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—
  - (a) confirm the decision, or
  - (b) substitute for the decision another decision that HMRC had power to make.
- (6) Subject to this paragraph and paragraph 17, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this paragraph as they have effect in relation to an appeal against an assessment to income tax.

#### *Enforcement of penalty*

- 17 (1) A penalty under paragraph 14 must be paid—
  - (a) before the end of the period of 30 days beginning with the day on which the notification under paragraph 15 was given, or
  - (b) if notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the day on which the appeal is finally determined or withdrawn.
- (2) A penalty under paragraph 14 may be enforced as if it were income tax charged in an assessment and due and payable.

#### *Protection of deposit-takers acting in good faith*

- 18 A deposit-taker is not liable for damages in respect of anything done in good faith for the purposes of complying with a hold notice or a deduction notice.

#### *Power to modify amounts and time limits*

- 19 (1) The Commissioners may by regulations amend any of the following provisions by substituting a different amount for the amount for the time being specified there—
  - (a) paragraph 2(2) (requirement that relevant sum is a minimum amount);
  - (b) paragraph 4(6) and (8) (threshold for safeguarded amount);
  - (c) paragraph 14(3) or (4) (level of penalties).
- (2) The Commissioners may by regulations amend any of the following provisions by substituting a different period for the period for the time being specified there—
  - (a) paragraph 3(4) (time limit for complying with information notices);
  - (b) paragraph 6(2) (time limit for complying with hold notices);
  - (c) paragraph 8(3) or (5) (time limit for notifying HMRC of effects of hold notice);
  - (d) paragraph 9(3) (cancellation etc of hold notice: time limit for cancelling or adjusting arrangements);
  - (e) paragraph 10(5) (time limit for making objections);
  - (f) paragraph 11(1) (time limit for consideration of objections);
  - (g) paragraph 11(6) (consideration of objections: time limit for cancelling or adjusting arrangements);
  - (h) paragraph 12(8) (appeals: time limit for compliance with court order).

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*Power to make further provision*

- 20 (1) The Commissioners may by regulations make provision supplementing this Part of this Schedule.
- (2) The regulations may, in particular, make provision—
- (a) about the manner in which a notice or a copy of a notice is to be given under this Part of this Schedule, or the circumstances in which a notice or a copy of a notice is to be treated as given, for the purposes of this Part of this Schedule;
  - (b) specifying circumstances in which a notice under this Part of this Schedule may not be given;
  - (c) specifying descriptions of account in respect of which a hold notice or deduction notice has no effect;
  - (d) specifying circumstances in which amounts standing to the credit of an account are to be treated as not standing to the credit of the account for the purposes of a hold notice or deduction notice;
  - (e) about fees a deposit-taker may charge a person in respect of whom a notice is given under this Part of this Schedule towards administrative costs in complying with that notice;
  - (f) with respect to priority as between a notice under this Part of this Schedule and—
    - (i) any other such notice, or
    - (ii) any notice or order under any other enactment.

*Regulations*

- 21 (1) Regulations under this Part of this Schedule may—
- (a) make different provision for different purposes,
  - (b) include supplementary, incidental and consequential provision, or
  - (c) make transitional provision and savings.
- (2) Regulations under this Part of this Schedule are to be made by statutory instrument.
- (3) A statutory instrument containing only regulations within sub-paragraph (4) is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) The regulations within this sub-paragraph are—
- (a) regulations which prescribe information for the purposes of paragraph 3(2) or any provision of paragraph 8,
  - (b) regulations under paragraph 4(10),
  - (c) regulations under paragraph (a), (b), (c), (d), (g) or (h) of paragraph 19(2), or
  - (d) regulations under paragraph 20(2).
- (5) Any other statutory instrument containing regulations under this Part of this Schedule may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

*Joint accounts*

- 22 In this Part of this Schedule a reference to an account held by a person includes a reference to a joint account held by that person and one or more other persons.

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### *Defined terms*

- 23 (1) In this Part of this Schedule—
- “affected account” has the meaning given by paragraph 6(7);
  - “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
  - “contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment;
  - “deduction notice” has the meaning given by paragraph 13;
  - “deposit-taker” means a person who may lawfully accept deposits in the United Kingdom in the course of a business (see sub-paragraph (2));
  - “HMRC” means Her Majesty's Revenue and Customs;
  - “hold notice” has the meaning given by paragraph 4;
  - “information notice” has the meaning given by paragraph 3;
  - “interested third party”, in relation to a relevant account, has the meaning given by paragraph 8(11);
  - “joint account”, in relation to a person, means an account held by the person and one or more other persons;
  - “notice” means notice in writing;
  - “notified sum”, in relation to a hold notice, has the meaning given by paragraph 8(8);
  - “prescribed” means prescribed by regulations made by the Commissioners;
  - “relevant account” (in relation to a hold notice) has the meaning given by paragraph 6(6);
  - “relevant sum”, in relation to a person, has the meaning given by paragraph 2(1);
  - “the safeguarded amount” (in relation to a hold notice) means the amount specified as the safeguarded amount in the notice (see paragraph 4(2)(c));
  - “the specified amount” (in relation to a hold notice) means the amount specified as such in the notice (see paragraph 4(2)(b));
  - “suspense account” has the meaning given by paragraph 6(3)(b)(i);
  - “the tribunal” means the First-tier Tribunal;
  - “working day” means a day other than—
    - (a) Saturday or Sunday,
    - (b) Christmas Eve, Christmas Day or Good Friday, or
    - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or Northern Ireland.
- (2) The definition of “deposit-taker” in sub-paragraph (1) is to be read with—
- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities),
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act.

### *Extent*

- 24 This Part of this Schedule extends to England and Wales and Northern Ireland.

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## PART 2

### MISCELLANEOUS AMENDMENTS

#### *TMA 1970*

25 In section 28C of TMA 1970 (determination of tax where no return delivered), after subsection (4) insert—

“(4A) Where—

(a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by a determination under this section, and

(b) before that action is concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3),

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not been paid and does not exceed the original amount.”

#### *Insolvency Act 1986*

26 The Insolvency Act 1986 is amended as follows.

27 In section 126 (power to stay or restrain proceedings against company), after subsection (2) insert—

“(3) Subsection (1) applies in relation to any action being taken in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as it applies in relation to any action or proceeding mentioned in paragraph (b) of that subsection.”

28 In section 128 (avoidance of attachments, etc), after subsection (2) insert—

“(3) In subsection (1) “attachment” includes a hold notice or a deduction notice under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and, if subsection (1) has effect in relation to a deduction notice, it also has effect in relation to the hold notice to which the deduction notice relates (whenever the hold notice was given).”

29 In section 130 (consequences of winding-up order), after subsection (3) insert—

“(3A) In subsections (2) and (3), the reference to an action or proceeding includes action in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts).”

30 (1) Section 176 (preferential charge on goods distrained) is amended as follows.

(2) For subsection (2) substitute—

“(2) Subsection (2A) applies where—

(a) any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of the company, or

(b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),

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in the period of 3 months ending with the date of the winding-up order.

(2A) Where this subsection applies—

(a) in a case within subsection (2)(a), the goods or effects, or the proceeds of their sale, and

(b) in a case within subsection (2)(b), the amount in question,

is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.”

(3) In subsection (3) for “(2)” substitute “ (2A) ”.

(4) Accordingly, in the heading for the section, after “distrained” insert “, etc ”.

31 In section 183 (effect of execution or attachment (England and Wales)), after subsection (4) insert—

“(4A) For the purposes of this section, Her Majesty's Revenue and Customs is to be regarded as having attached a debt due to a company if it has taken action under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction for accounts) as a result of which an amount standing to the credit of an account held by the company is—

(a) subject to arrangements made under paragraph 6(3) of that Schedule, or

(b) the subject of a deduction notice under paragraph 13 of that Schedule.”

32 In section 346 (enforcement procedures), after subsection (1) insert—

“(1A) For the purposes of this section, Her Majesty's Revenue and Customs is to be regarded as having attached a debt due to a person if it has taken action under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as a result of which an amount standing to the credit of an account held by that person is—

(a) subject to arrangements made under paragraph 6(3) of that Schedule, or

(b) the subject of a deduction notice under paragraph 13 of that Schedule.”

33 (1) In section 347 (distress, etc)—

(a) for subsection (3) substitute—

“(3) Subsection (3A) applies where—

(a) any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of an individual who is adjudged bankrupt before the end of the period of 3 months beginning with the distraint, or

(b) Her Majesty's Revenue and Customs has been paid any amount from an account of an individual under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and the individual is adjudged bankrupt before the end of the period of 3 months beginning with the payment.

(3A) Where this subsection applies—

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- (a) in a case within subsection (3)(a), the goods or effects, or the proceeds of their sale, and
  - (b) in a case within subsection (3)(b), the amount in question, is charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting them.”;
  - (b) in subsection (4), for “(3)” substitute “ (3A) ”.
- (2) In paragraph 40(3) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (which amends section 347(3) of the Insolvency Act 1986 to substitute “ made ” for “adjudged”), the reference to subsection (3) of section 347 is to be read as a reference to the version of subsection (3) substituted by sub-paragraph (1) of this paragraph.

*Insolvency (Northern Ireland) Order 1989*

- 34 The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19) is amended as follows.
- 35 In Article 106 (power to stay or restrain proceedings against company), after paragraph (2) insert—
- “(3) Paragraph (1) applies in relation to any action being taken in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as it applies in relation to any action or proceeding mentioned in sub-paragraph (b) of that paragraph.”
- 36 In Article 108 (avoidance of sequestration or distress)—
- (a) the existing text becomes paragraph (1), and
  - (b) after that paragraph insert—
- “(2) In paragraph (1) the reference to “sequestration or distress” includes a hold notice or a deduction notice under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and, if paragraph (1) has effect in relation to a deduction notice, it also has effect in relation to the hold notice to which it relates (whenever the hold notice was given).”
- 37 In Article 110 (consequences of winding-up order), after paragraph (3) insert—
- “(3A) In paragraphs (2) and (3), the reference to an action or proceeding includes action in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts).”
- 38 (1) Article 150 (preferential charge on goods distrained) is amended as follows.
- (2) For paragraph (2) substitute—
- “(2) Paragraph (2A) applies where—
- (a) any person has distrained upon the goods or effects of the company, or
  - (b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),
- within the 3 months immediately preceding the date of the winding-up order.

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- (2A) Where this paragraph applies—
- (a) in a case within paragraph (2)(a), the goods or effects, or the proceeds of their sale, and
  - (b) in a case within paragraph (2)(b), the amount in question,
- is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.”
- (3) In paragraph (3) for “(2)” substitute “ (2A) ”.
- (4) Accordingly, in the heading for the Article after “distrained” insert “ , etc ”.
- 39 (1) Article 301 (preferential charge on goods distrained) is amended as follows.
- (2) For paragraph (1) substitute—
- “ (1) Paragraph (1A) applies where—
- (a) any person has distrained upon the goods or effects of an individual who is adjudged bankrupt within 3 months from the distraint, or
  - (b) Her Majesty's Revenue and Customs has been paid any amount from an account of an individual under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and the individual is adjudged bankrupt within 3 months from the payment.
- (1A) Where this paragraph applies—
- (a) in a case within paragraph (1)(a), the goods or effects, or the proceeds of their sale, and
  - (b) in a case within paragraph (1)(b), the amount in question,
- is charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting them.”
- (3) In paragraph (2) for “(1)” substitute “ (1A) ”.

*FA 1998*

- 40 In Schedule 18 to FA 1998 (company tax returns, assessments etc), in paragraph 40, after sub-paragraph (4) insert—
- “ (5) Where—
- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of any tax charged by a determination under paragraph 36 or 37, and
  - (b) before that action is concluded, the determination is superseded by a self-assessment,
- that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not been paid and does not exceed the original amount.”

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance (No. 2) Act 2015. (See end of Document for details)*

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*FA 2003*

41 In Schedule 10 to FA 2003 (stamp duty land tax: returns etc), in paragraph 27, after sub-paragraph (3) insert—

“(4) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by a Revenue determination, and
- (b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.”

*FA 2013*

42 In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns etc), in paragraph 20, after sub-paragraph (3) insert—

“(4) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by an HMRC determination, and
- (b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.”



**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2015.