
Changes to legislation: Finance Act 2011, Cross Heading: Definition of “banking group” is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 19

THE BANK LEVY

PART 3

GROUPS COVERED BY THE BANK LEVY

Definition of “banking group”

- 12 (1) The relevant group is a “banking group” if—
- (a) condition A, B, C or D is met, and
 - (b) the exempt activities condition is not met (see paragraph 13).
- (2) Condition A is that the parent entity is a UK resident bank (see paragraph 80) or a relevant foreign bank (see paragraph 78).
- (3) Condition B is that—
- (a) the parent entity is an investment entity, and
 - (b) the members of the relevant group include at least one UK resident bank to which sub-paragraph (6) applies or relevant foreign bank to which that sub-paragraph applies.
- (4) Condition C is that—
- (a) the parent entity is a non-UK resident entity to which sub-paragraph (8) applies, and
 - (b) the members of the relevant group include at least one UK resident bank or relevant foreign bank.
- (5) Condition D is that—
- (a) the parent entity is an investment entity,
 - (b) the members of the relevant group include at least one non-UK resident entity to which both sub-paragraphs (6) and (8) apply, and
 - (c) those members also include at least one UK resident bank or relevant foreign bank.
- (6) This sub-paragraph applies to an entity (“E”) if, for the purposes of the applicable accounting provisions, E is not a subsidiary of any other entity apart from investment entities.
- (7) “The applicable accounting provisions” means—
- (a) the provisions mentioned in paragraph 4(3), ^{F1} ...
 - ^{F1}(b)
- (8) This sub-paragraph applies to an entity (“F”) if—

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- (a) F would be a UK resident bank if—
- (i) F were a UK resident entity,
 - (ii) it carried on its activities in the United Kingdom,
 - (iii) where it would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities in the United Kingdom, it were an authorised person with permission to carry on those activities, and
 - (iv) where those activities consist wholly or mainly of any of the relevant [^{F2}regulated] activities described in the provisions mentioned in paragraph 79(b) to (f), as a result of carrying on those activities and having such permission it would be a BIPRU 730k firm and [^{F3}an FCA investment firm that meets the conditions in paragraph 70(1B)], or
- (b) F is a member of a partnership which is a non-UK resident entity and F would be a UK resident bank if—
- (i) both F and the partnership were UK resident entities,
 - (ii) the partnership carried on its activities in the United Kingdom,
 - (iii) where the partnership would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities in the United Kingdom, the partnership were an authorised person with permission to carry on those activities, and
 - (iv) where those activities consist wholly or mainly of any of the relevant [^{F4}regulated] activities described in the provisions mentioned in paragraph 79(b) to (f), as a result of carrying on those activities and having such permission the partnership would be [^{F5}an FCA investment firm that meets the conditions in paragraph 70(1B)].
- (9) “Investment entity”—
- (a) means an entity the business of which consists wholly or mainly of, and the principal part of the income of which is derived from, the making of investments, and
 - (b) also includes any savings bank or other bank for savings.

Textual Amendments

- F1** Sch. 19 para. 12(7)(b) and preceding word omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 23](#)
- F2** Word in Sch. 19 para. 12(8)(a)(iv) inserted (1.1.2014 retrospective) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 20\(2\)\(a\)\(i\)\(8\)](#)
- F3** Words in [Sch. 19 para. 12\(8\)](#) substituted (5.4.2022 with application in relation to any chargeable period ending on or after 1.1.2022) by [The Taxation of Banks \(Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011\) Regulations 2022 \(S.I. 2022/286\)](#), regs. 1(2)(9), [13\(a\)](#)
- F4** Word in Sch. 19 para. 12(8)(b)(iv) inserted (1.1.2014 retrospective) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 20\(2\)\(b\)\(i\)\(8\)](#)
- F5** Words in [Sch. 19 para. 12\(8\)](#) substituted (5.4.2022 with application in relation to any chargeable period ending on or after 1.1.2022) by [The Taxation of Banks \(Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011\) Regulations 2022 \(S.I. 2022/286\)](#), regs. 1(2)(9), [13\(b\)](#)

- 13 (1) The exempt activities condition is met for the purposes of paragraph 12(1)(b) if—

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- (a) at least 90% of the trading income of the relevant group for the chargeable period derives from exempt activities, or
 - (b) at least 50% of the trading income of the relevant group for the chargeable period derives from non-financial trading activities.
- (2) For this purpose, the trading income of the relevant group for the chargeable period—
- (a) consists of the items mentioned in sub-paragraph (3), and
 - (b) is to be determined by reference to—
 - (i) the amounts recognised in the group's consolidated financial statements for the chargeable period as prepared under [F6:international accounting standards], or
 - (ii) if no such financial statements are prepared, the amounts which would have been so recognised had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.
- (3) The items referred to in sub-paragraph (2)(a) are—
- (a) the group's gross income for the chargeable period arising from its activities (other than net-basis activities) without taking account of any deductions (whether for expenses or otherwise), and
 - (b) the group's net income for the chargeable period arising from its net-basis activities.
- (4) In this paragraph—
- “activities” includes buying, holding, managing and selling assets;
F7
 - [F8“dealing on own account” has the same meaning as in Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (see Article 2.1(5));]
 - “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) but ignoring the exclusions in articles 6 to 9AB;
 - “exempt activities” means—
 - (a) insurance activities, asset management activities and related activities, and
 - (b) non-financial trading activities;
 - “financial trading entity” means an entity which—
 - (a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
 - (b) is not UK resident, but if it were and it carried on its activities in the United Kingdom, would be required to be an authorised person, or
 - (c) is not within paragraph (a) or (b) but carries on a trade consisting wholly or partly in dealing in securities;
 - “insurance activities” means—
 - (a) the effecting or carrying out of contracts of insurance by a regulated insurer, and
 - (b) investment business that arises directly from activities falling within paragraph (a);
 - “lending activities” means—

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- (a) acceptance of deposits or other repayable funds,
- (b) lending of money, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions (including forfeiting),
- (c) finance leasing (as lessor),
- (d) issuing and administering means of payment,
- (e) provision of guarantees or commitments to provide money,
- (f) money transmission services,
- (g) provision of alternative finance arrangements, and
- (h) other activities carried on in connection with activities falling within any of paragraphs (a) to (g);

“net-basis activities” means activities normally reported on a net basis in consolidated financial statements prepared under [^{F9}international accounting standards];

“non-financial trading activities” means activities carried on by an entity which is not a financial trading entity, other than—

- (a) lending activities, and
- (b) dealing on own account, with the exception of any hedging transactions in relation to activities which (disregarding this exception) are non-financial trading activities;

“regulated insurer”, in relation to the relevant group, means a member of the group which—

- (a) is authorised under the law of any territory to carry on insurance business, or
- (b) is a member of a body or organisation which is so authorised;

“related activities” means—

- (a) activities which are ancillary to insurance activities or asset management activities of any entity which is a member of the relevant group (whether or not the entity carrying on the insurance activities or asset management activities), and
- (b) activities which would not be carried on but for such insurance activities or asset management activities being carried on,

but does not include dealing on own account;

“securities” includes—

- (a) shares,
- (b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of that Act, and
- (c) in the case of a company with no share capital, interests in the company possessed by members of the company.

Textual Amendments

- F6** Words in Sch. 19 para. 13(2)(b)(i) substituted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 24\(a\)](#)
- F7** Words in Sch. 19 para. 13(4) omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 24\(b\)](#)
- F8** Words in Sch. 19 para. 13(4) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [20\(2\)\(a\)](#) (with regs. 39-41); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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F9 Words in Sch. 19 para. 13(4) substituted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 24\(c\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)