

## SCHEDULES

### SCHEDULE 7

#### LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

##### PART 1

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

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.”