
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 2. (See end of Document for details)

SCHEDULES

SCHEDULE 9

BANK LEVY

PART 1

CHARGEABLE EQUITY AND LIABILITIES

Chargeable equity and liabilities: relevant groups and relevant entities

2 For paragraphs 15 to 23 (and the italic heading preceding paragraph 15) substitute—

“Chargeable equity and liabilities: relevant groups

15 (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).

(2) The amount of the chargeable equity and liabilities of the relevant group is the total of—

- (a) the UK-based equity and liabilities, as at the end of the chargeable period, of—
 - (i) each UK sub-group, and
 - (ii) each chargeable UK resident entity, and
- (b) if a relevant foreign bank is a member of the relevant group, the UK allocated equity and liabilities of that bank as at the end of the chargeable period (see paragraph 24).

Chargeable equity and liabilities: relevant entities

15A(1) This paragraph applies if the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups).

(2) The amount of the chargeable equity and liabilities of the relevant entity is—

- (a) in the case of a UK resident bank or building society, the amount of the UK-based equity and liabilities of the entity, as at the end of the chargeable period, or
- (b) in the case of a relevant foreign bank, the amount of the UK allocated equity and liabilities of that bank as at the end of the chargeable period (see paragraph 24).

Meaning of “UK sub-group”

15B “UK sub-group” means a group of entities—

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- (a) which is a group for the purposes of those provisions of international accounting standards which relate to the preparation of consolidated financial statements,
- (b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is—
 - (i) if the relevant group is a relevant non-banking group, a UK resident bank, or
 - (ii) in any other case, a UK resident entity,
- (c) the members of which, for the purposes of those provisions, are all members of the relevant group,
- (d) in respect of which consolidated financial statements for the chargeable period are prepared under international accounting standards, and
- (e) the members of which are not members of any larger group of entities, in respect of which the conditions in paragraphs (a) to (c) are met, for which such financial statements are prepared.

Meaning of “chargeable UK resident entity”

- 15C (1) “Chargeable UK resident entity” means a UK resident entity which—
- (a) is a member of the relevant group, but is not a member of a UK sub-group, and
 - (b) if the relevant group is a relevant non-banking group, is a banking entity.
- (2) A UK resident entity is a “banking entity” for the purposes of sub-paragraph (1) if it is—
- (a) a UK resident bank, or
 - (b) a subsidiary of a UK resident bank.
- (3) In sub-paragraph (2)(b) “subsidiary” has the meaning given by those provisions of international accounting standards which relate to the preparation of consolidated financial statements.

Election to disregard non-UK allocated equity and liabilities

- 15D(1) This paragraph applies if—
- (a) the bank levy is charged as provided for by paragraph 4 (groups), and
 - (b) a UK resident entity, which is a member of the relevant group, has a foreign permanent establishment.
- (2) For the purposes of this Part of this Schedule, a UK resident entity “has a foreign permanent establishment” if the entity carries on a trade in a territory outside the United Kingdom through a permanent establishment (the “foreign permanent establishment”) in that territory.
- (3) The relevant group's responsible member may, for the purposes of determining the UK-based equity and liabilities of a UK sub-group or a chargeable UK resident entity, elect to disregard the non-UK allocated equity and liabilities attributable to—

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- (a) any or all of the foreign permanent establishments of any or all of the UK resident entities which are members of the UK sub-group;
 - (b) any or all of the foreign permanent establishments of the chargeable UK resident entity.
 - (4) See paragraph 15Z1 for further provision about non-UK allocated equity and liabilities.
- 15E (1) This paragraph applies if—
- (a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), and
 - (b) the relevant entity is a UK resident entity which has a foreign permanent establishment.
- (2) The relevant entity may, for the purposes of determining its UK-based equity and liabilities, elect to disregard the non-UK allocated equity and liabilities attributable to any or all of its foreign permanent establishments.
- 15F (1) An election made under paragraph 15D or 15E in respect of a UK resident entity—
- (a) must be made in the form and manner specified by the Commissioners for Her Majesty's Revenue and Customs,
 - (b) must contain such information and declarations as the Commissioners may require, and
 - (c) may be revoked at any time—
 - (i) in the case of an election under paragraph 15D, by the relevant group's responsible member;
 - (ii) in the case of an election under paragraph 15E, by the relevant entity.
- (2) In this Schedule, “designated FPE entity” means a UK resident entity in respect of which an election is made under paragraph 15D or 15E.

Determining the assets, equity and liabilities of UK resident entities

- 15G (1) This paragraph applies, in relation to a UK resident entity, for the purposes of paragraphs 15H(2), 15L(3) and 15Z1.
- (2) The assets, equity and liabilities, as at the end of the chargeable period, of the entity are to be determined by reference to—
- (a) the amounts recognised in the entity's financial statements for the chargeable period as prepared under international accounting standards, or
 - (b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared under international accounting standards.

Determining the UK-based equity and liabilities of UK resident entities

- 15H (1) This paragraph applies in relation to a UK resident entity, other than a designated FPE entity, which is—
- (a) where the bank levy is charged as provided for by paragraph 4 (groups), a chargeable UK resident entity;

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- (b) where the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), the relevant entity.
- (2) To determine the UK-based equity and liabilities of the UK resident entity, as at the end of the chargeable period—
 - (a) determine the amount of the entity's equity and liabilities, in accordance with paragraph 15G(2), and
 - (b) adjust that amount in accordance with paragraph 15N.
- 15I (1) This paragraph applies in relation to a designated FPE entity which is—
 - (a) where the bank levy is charged as provided for by paragraph 4 (groups), a chargeable UK resident entity;
 - (b) where the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), the relevant entity.
- (2) To determine the UK-based equity and liabilities of the entity, as at the end of the chargeable period, take Steps 1 to 5 in paragraph 15Z1.

Determining the UK-based equity and liabilities of UK sub-groups

- 15J (1) This paragraph applies in relation to a UK sub-group if—
 - (a) each member of the UK sub-group is a UK resident entity,
 - (b) none of those members is a designated FPE entity, and
 - (c) the relevant group's responsible member has not made an entity-by-entity election (see paragraph 15L) in relation to the UK sub-group.
- (2) The assets, equity and liabilities, as at the end of the chargeable period, of the UK sub-group are to be determined by reference to the amounts recognised in the sub-group's consolidated financial statements for the chargeable period.
- (3) To determine the UK-based equity and liabilities of the UK sub-group, as at the end of the chargeable period—
 - (a) determine the amount of the UK sub-group's equity and liabilities in accordance with sub-paragraph (2), and
 - (b) adjust that amount in accordance with paragraph 15N.
- 15K (1) This paragraph applies in relation to a UK sub-group if—
 - (a) at least one member of the UK sub-group is—
 - (i) a non-UK resident entity, or
 - (ii) a designated FPE entity, and
 - (b) the relevant group's responsible member has not made an entity-by-entity election (see paragraph 15L) in relation to the UK sub-group.
- (2) In this Schedule, “residual UK sub-group” means, in relation to a UK sub-group to which this paragraph applies, the group of entities consisting of the members of the UK sub-group which—
 - (a) are UK resident entities, but
 - (b) are not designated FPE entities.
- (3) The assets, equity and liabilities of the residual UK sub-group are to be determined by reference to the amounts which, if financial statements had been prepared for the residual UK sub-group for the chargeable period under

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international accounting standards, would have been recognised in those statements.

- (4) The amount of the UK-based equity and liabilities of the UK sub-group, as at the end of the chargeable period, is the total amount of—
- (a) the equity and liabilities of the residual UK sub-group as at the end of that period, adjusted in accordance with paragraph 15N, and
 - (b) the adjusted equity and liabilities of each designated FPE entity which is a member of the UK sub-group (see Step 5 in paragraph 15Z1).
- 15L (1) If the relevant group's responsible member makes an election under this paragraph (an “entity-by-entity election”) in relation to a UK sub-group, the UK-based equity and liabilities of the UK sub-group are to be determined in accordance with this paragraph.
- (2) The amount of the UK-based equity and liabilities of the UK sub-group as at the end of the chargeable period is the total amount of—
- (a) the adjusted equity and liabilities of each UK resident entity, other than a designated FPE entity, which is a member of the UK sub-group, and
 - (b) the adjusted equity and liabilities of each designated FPE entity which is a member of the UK sub-group (see Step 5 in paragraph 15Z1).
- (3) To determine the “adjusted equity and liabilities” of a UK resident entity for the purposes of sub-paragraph (2)(a)—
- (a) determine the amount of the entity's equity and liabilities in accordance with paragraph 15G(2), and
 - (b) adjust that amount in accordance with paragraph 15N.
- (4) An election made under this paragraph has effect in relation to the chargeable period during which the election is made and each subsequent chargeable period (unless it is revoked under sub-paragraph (6)(c)).
- (5) But an election under this paragraph has no effect in relation to a UK sub-group for a chargeable period if the purpose, or one of the main purposes, of making the election is to avoid or reduce a charge or assessment to the bank levy.
- (6) An election made under this paragraph in respect of the relevant group—
- (a) must be made in the form and manner specified by the Commissioners for Her Majesty's Revenue and Customs,
 - (b) must contain such information and declarations as the Commissioners may require, and
 - (c) may be revoked by the relevant group's responsible member at any time.

Adjustments: general

- 15M For the purposes of paragraphs 15N to 15Z, references to a “chargeable UK sub-group or entity” are references to—
- (a) in a case to which paragraph 15H or 15L(3) applies, the UK resident entity,

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- (b) in a case to which paragraph 15J applies, the UK sub-group,
- (c) in a case to which paragraph 15K applies, the residual UK sub-group, or
- (d) in a case to which paragraph 15Z1 applies, the designated FPE entity.

15N(1) To adjust the amount of the equity and liabilities of a chargeable UK sub-group or entity for the purposes of paragraph 15H(2)(b), 15J(3)(b), 15K(4)(a), 15L(3)(b) or Step 3 in paragraph 15Z1, take the following steps—

Step 1 Take the amount of the equity and liabilities of the chargeable UK sub-group or entity, other than excluded equity and liabilities, as at the end of the chargeable period.

Step 2 Adjust that amount in accordance with paragraphs 15O to 15U (so far as applicable).

Step 3 If paragraph 15X (loss absorbing instruments issued by overseas subsidiaries) applies in relation to the chargeable UK sub-group or entity, reduce the adjusted amount (but not below nil) by the amount determined under that paragraph (subject to sub-paragraph (2)).

Step 4 Subject to sub-paragraph (2), reduce the amount given by Step 3 (but not below nil) by—

- (a) the amount of the chargeable UK sub-group or entity's high quality liquid assets as at the end of that period, other than—
 - (i) any asset which, for the purposes of an adjustment at Step 2, is an asset to which paragraph 15U(1) applies;
 - (ii) any asset which is taken into account in determining the amount of a reduction under paragraph 15X for the purposes of Step 3;
 - (iii) in a case where the bank levy is charged as provided for by paragraph 4 (groups) and a relevant foreign bank is a member of the relevant group, any asset which for the purposes of Step 3 of paragraph 24(1) is an asset to which paragraph 27D(1) applies; and
 - (b) if paragraph 15Z (high quality liquid assets) applies, the amount determined under that paragraph.
- (2) Where any amount (“A”) within Step 3, or within paragraph (a) or (b) of Step 4, is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.

Step 2 in paragraph 15N: equity and liability adjustments and netting

15O(1) This paragraph applies if—

- (a) the bank levy is charged as provided for by paragraph 4 (groups), and
 - (b) the members of a UK sub-group which are UK resident entities are also members of at least one larger unconsolidated sub-group.
- (2) A group of entities is an “unconsolidated sub-group” if—
- (a) the conditions in paragraph 15B(a) to (c) and (e) are met in respect of the group, but

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- (b) the condition in paragraph 15B(d) (consolidated financial statements) is not met in respect of the group.
 - (3) Any equity of the UK resident entities which are members of the UK sub-group is to be left out so far as it would have been eliminated under normal consolidation procedures, had consolidated financial statements for the larger or largest unconsolidated sub-group been prepared for the chargeable period under international accounting standards.
- 15P (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).
- (2) Sub-paragraph (3) applies in relation to an entity if—
 - (a) it is a chargeable UK resident entity (whether or not a designated FPE entity), and
 - (b) it is a member of at least one unconsolidated sub-group (see paragraph 15O(2)).
 - (3) Any equity of the entity is to be left out so far as it would have been eliminated under normal consolidation procedures, had consolidated financial statements for the unconsolidated sub-group, or the largest unconsolidated sub-group of which the entity is a member, been prepared for the chargeable period under international accounting standards.
- 15Q(1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).
- (2) Sub-paragraph (3) applies in relation to a UK resident entity if—
 - (a) it is a member of a UK sub-group in respect of which an entity-by-entity election has been made under paragraph 15L (whether or not it is a designated FPE entity), or
 - (b) it is a designated FPE entity and a member of a UK sub-group in respect of which no entity-by-entity election has been made.
 - (3) Any equity of the entity is to be left out so far as it would have been eliminated under normal consolidation procedures under international accounting standards, but disregarding from the consolidation any non-UK resident entities.
- 15R(1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).
- (2) The following liabilities of a chargeable UK sub-group or entity are to be left out—
 - (a) UK connected liabilities to a chargeable UK resident entity which is a member of the relevant group,
 - (b) UK connected liabilities to a UK sub-group of the relevant group,
 - (c) UK connected liabilities to a relevant foreign bank which is a member of the relevant group, and
 - (d) in the case of an entity to which paragraph 15Q applies, UK connected liabilities of the entity to another UK resident entity which is a member of the same UK sub-group.
 - (3) For the purposes of sub-paragraph (2)(a) and (d), liabilities to a UK resident entity are “UK connected liabilities” except so far as the entity's

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assets corresponding to the liabilities are assets of a foreign permanent establishment in respect of which an election under paragraph 15D has been made (as determined at Step 2 in paragraph 15Z1).

- (4) For the purposes of sub-paragraph (2)(b), liabilities to a UK sub-group are “UK connected liabilities” except so far as the sub-group's assets corresponding to the liabilities are—
 - (a) assets of a non-UK resident entity, or
 - (b) assets of a foreign permanent establishment in respect of which an election under paragraph 15D has been made (as determined at Step 2 in paragraph 15Z1).
- (5) For the purposes of sub-paragraph (2)(c), liabilities to a relevant foreign bank are “UK connected liabilities” so far as the bank's assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1).

15S (1) Paragraph 15U applies if—

- (a) the bank levy is charged as provided for by paragraph 4 (groups),
 - (b) an entity (“M”) within sub-paragraph (5) has liabilities to another entity (“N”) not within that sub-paragraph (“M's liabilities”),
 - (c) M, or another member of the relevant group, recognises, as assets, amounts (“N's liabilities”) that are due to any member of the relevant group from N or another entity not within sub-paragraph (5),
 - (d) there is in place an agreement which makes net settlement provision, and
 - (e) that provision is legally effective and enforceable.
- (2) In sub-paragraph (1)(d), “net settlement provision” means provision for there to be a single net settlement—
- (a) if a netting event occurs, or
 - (b) at the option of M or N, if a netting event occurs.
- (3) The reference in sub-paragraph (2) to a “single net settlement” is a reference to a single net settlement of—
- (a) all M's liabilities, and liabilities of other entities within sub-paragraph (5), to N or another entity which is not within that sub-paragraph (so far as covered by the provision mentioned in sub-paragraph (1)(d)), and
 - (b) all N's liabilities (so far as covered by that provision).
- (4) But a provision for there to be single net settlement—
- (a) at the option of M, but not at the option of N, if a netting event occurs, or
 - (b) at the option of N, but not at the option of M, if a netting event occurs,
- is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(d).
- (5) An entity is within this sub-paragraph if it is —
- (a) a UK resident entity which is a member of a UK sub-group, or
 - (b) a chargeable UK resident entity.

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- (6) For the purposes of sub-paragraph (1)—
- (a) “agreement” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
 - (b) if N is a relevant foreign bank which is a member of the relevant group, liabilities of M to N are to be ignored so far as N recognises assets in respect of those liabilities as assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),
 - (c) references to amounts due from N or another entity not within sub-paragraph (5) include securities provided by M, or another member of the relevant group, to N or another entity not within sub-paragraph (5) as collateral, but only where M or that other member recognises those securities in its balance sheet or statement of financial position, and
 - (d) “a netting event occurs”—
 - (i) in relation to M, if the insolvency or bankruptcy of M, or another entity within sub-paragraph (5) which has a liability covered by the provision mentioned in sub-paragraph (1)(d), gives rise to the termination of any arrangements under which such a liability arises, or
 - (ii) in relation to N, if the insolvency or bankruptcy of N, or another entity not within sub-paragraph (5) which has a liability covered by the provision mentioned in sub-paragraph (1)(d), gives rise to the termination of any arrangements under which such a liability arises.
- (7) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (6) and paragraph 15T(5) as it applies for the purposes of Chapter 10 of Part 6 of that Act.

15T (1) Paragraph 15U also applies if—

- (a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups),
 - (b) the relevant entity (“M”) is a UK resident entity,
 - (c) M has liabilities to another entity (“M’s liabilities”),
 - (d) M recognises, as assets, amounts due from that other entity (“N”) to M (“N’s liabilities”),
 - (e) there is in place an agreement between M and N which makes net settlement provision, and
 - (f) that provision is legally effective and enforceable.
- (2) In sub-paragraph (1)(e), “net settlement provision” means provision for there to be a single net settlement—
- (a) if a netting event occurs, or
 - (b) at the option of M or N, if a netting event occurs.
- (3) The reference in sub-paragraph (2) to a “single net settlement” is a reference to a single net settlement of—
- (a) all M’s liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(e)), and
 - (b) all N’s liabilities (so far as covered by that provision).

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- (4) But a provision for there to be single net settlement—
 - (a) at the option of M, but not at the option of N, if a netting event occurs, or
 - (b) at the option of N, but not at the option of M, if a netting event occurs, is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(e).
 - (5) For the purposes of sub-paragraph (1)—
 - (a) “agreement” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
 - (b) references to amounts due from N include securities provided by M to N as collateral, but only where M recognises those securities in its balance sheet or statement of financial position, and
 - (c) “a netting event occurs”—
 - (i) in relation to M, if the insolvency or bankruptcy of M gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(e) arises, or
 - (ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.
- 15U(1) The amount of M's net settlement liabilities is to be reduced (but not below nil) by the amount of M's net settlement assets.
- (2) “M's net settlement liabilities” means M's liabilities so far as they—
 - (a) are covered by the provision mentioned in paragraph 15S(1)(d) or 15T(1)(e), and
 - (b) are not excluded liabilities.
 - (3) “M's net settlement assets” means the assets of—
 - (a) M, or
 - (b) in a case within paragraph 15S, another member of the relevant group,
 so far as corresponding to N's net settlement liabilities.
 - (4) But, in a case within paragraph 15S—
 - (a) if N's net settlement liabilities include liabilities of a relevant foreign bank which is a member of the relevant group, X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (3), and
 - (b) if sub-paragraph (1) applies in relation to more than one entity within paragraph 15S(5), no part of an asset may be included in the net settlement assets of more than one such entity, and
 - (c) if an asset, or part of an asset, is included for the purposes of paragraph 27D in the net settlement assets of a relevant foreign bank which is a member of the relevant group, the asset (or part) is not to be included in M's net settlement assets for the purposes of this paragraph.

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- (5) “N’s net settlement liabilities” means N’s liabilities so far as they are covered by the provision mentioned in paragraph 15S(1)(d) or 15T(1)(e).
- (6) If M’s net settlement liabilities exceed M’s net settlement assets, and a proportion (A%) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (1)—
 - (a) the long term liabilities are reduced by A% of M’s net settlement assets, and
 - (b) the short term liabilities are reduced by B% of those assets.

*Step 3 in paragraph 15N: loss absorbing
instruments issued by overseas subsidiaries*

- 15V(1) This paragraph applies for the purposes of paragraphs 15W and 15X.
- (2) References to “loss absorbing instruments” are references to—
 - (a) tier one capital equity and liabilities, and
 - (b) other instruments,which satisfy a loss absorbing capacity or recapitalisation requirement.
 - (3) In this paragraph and paragraphs 15W and 15X, “tier one capital equity and liabilities” means—
 - (a) equity and liabilities which are “tier one equity and liabilities” within the meaning of paragraph 30, and
 - (b) equity and liabilities that are (or are of a description) specified, or meet such conditions as may be specified, in regulations made by the Treasury.
 - (4) A “loss absorbing capacity or recapitalisation requirement” is a requirement—
 - (a) that is imposed, in relation to tier one capital equity and liabilities or other instruments issued by an entity, by an authority in the exercise of its regulatory functions under the law of the United Kingdom or of a country or territory outside the United Kingdom, and
 - (b) that is (or is of a description) specified, or meets such conditions as may be specified, in regulations made by the Treasury.
- 15W(1) Paragraph 15X applies in relation to a chargeable UK sub-group or entity if Conditions A to C are met.
- (2) Condition A is that the bank levy is charged as provided for by paragraph 4 (groups).
 - (3) Condition B is that, as at the end of the chargeable period, the assets of a relevant group member include—
 - (a) qualifying loss absorbing instruments, or
 - (b) assets representing qualifying loss absorbing instruments.
 - (4) A loss absorbing instrument is “qualifying” for the purposes of this paragraph and paragraph 15X if—
 - (a) it is issued by a non-UK resident entity which is a subsidiary of a UK resident entity within sub-paragraph (5), and

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- (b) such other conditions as may be specified in regulations made by the Treasury are met in respect of the instrument.
- (5) A UK resident entity is within this sub-paragraph if—
 - (a) the entity is a member of the relevant group, and
 - (b) if the relevant group is a relevant non-banking group, the entity is a UK resident bank or a subsidiary of a UK resident bank.
- (6) For the purposes of Condition B, “relevant group member” means—
 - (a) the chargeable UK sub-group or entity,
 - (b) another UK sub-group of the relevant group, or
 - (c) a chargeable UK resident entity which is a member of the relevant group.
- (7) Condition C is that, as at the end of the chargeable period, the liabilities of the chargeable UK sub-group or entity include—
 - (a) tier one capital equity and liabilities (other than tier one capital equity and liabilities excluded by paragraph 30), or
 - (b) loss absorbing instruments, other than tier one capital equity and liabilities,
 in respect of which such conditions as may be specified in regulations made by the Treasury are met.
- 15X(1) The amount within Step 3 in paragraph 15N(1) is the total of—
 - (a) the amount of the relevant group member's assets which are, or represent, qualifying loss absorbing instruments within paragraph 15V(2)(a) as at the end of the chargeable period, so far as that amount does not exceed the liabilities amount within sub-paragraph (3), and
 - (b) the amount of the relevant group member's assets which are, or represent, qualifying loss absorbing instruments within paragraph 15V(2)(b) as at the end of the chargeable period, so far as that amount does not exceed the liabilities amount within sub-paragraph (4).
- (2) Sub-paragraph (1) is subject to sub-paragraph (5).
- (3) The “liabilities amount” within this sub-paragraph is the total amount of the chargeable UK sub-group or entity's equity and liabilities, adjusted in accordance with Steps 1 and 2 in paragraph 15N(1), that are tier one capital equity and liabilities within paragraph 15W(7)(a).
- (4) The “liabilities amount” within this sub-paragraph is the total amount of the chargeable UK sub-group or entity's equity and liabilities, adjusted in accordance with Steps 1 and 2 in paragraph 15N(1), that are loss absorbing instruments within paragraph 15W(7)(b).
- (5) An asset (or part of an asset) of the relevant group member is to be disregarded for the purposes of sub-paragraph (1) if—
 - (a) for the purposes of an adjustment at Step 2 in paragraph 15N(1), it is an asset (or part of an asset) to which paragraph 15U(1) applies,
 - (b) in a case where this paragraph applies in relation to more than one chargeable UK sub-group or entity, the asset (or part) is taken

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- into account in determining the amount within Step 3 in paragraph 15N(1) in relation to another chargeable UK sub-group or entity, or
- (c) in a case where a relevant foreign bank is a member of the relevant group, it is an asset (or part) to which paragraph 27D(1) applies for the purposes of Step 3 of paragraph 24(1).

15Y(1) This paragraph makes provision about regulations under any provision of paragraph 15V or 15W.

- (2) The regulations may include different provision for different purposes.
- (3) The regulations are to be made by statutory instrument.
- (4) A statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of the House of Commons.

Step 4 in paragraph 15N: high quality liquid assets

15Z(1) This paragraph applies where—

- (a) as at the end of the chargeable period, the assets of the chargeable UK sub-group or entity include a financial asset in respect of an advance of cash made—
- (i) in the case of a UK sub-group, by a member of that sub-group, or
- (ii) in any other case, by the entity,
- (b) that financial asset is not—
- (i) an asset which, for the purposes of an adjustment at Step 2 in paragraph 15N, is an asset to which paragraph 15U(1) applies,
- (ii) an asset which is taken into account in determining the amount of a reduction under paragraph 15X for the purposes of Step 3 in paragraph 15N in the application of those paragraphs in relation to any member of the relevant group, or
- (iii) in a case where the bank levy is charged as provided for by paragraph 4 (groups) and a relevant foreign bank is a member of the relevant group, an asset which for the purposes of Step 3 of paragraph 24(1) is an asset to which paragraph 27D(1) applies, and
- (c) underlying that asset, as collateral, is an item (“the collateral”) which—
- (i) in a case within paragraph (a)(i), is owned by the member and would form part of the sub-group's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the sub-group;
- (ii) in a case within paragraph (a)(ii), is owned by the entity and would form part of the entity's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the entity.

- (2) The amount within paragraph (b) of Step 4 in paragraph 15N is—

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- (a) the amount of the financial asset as at the end of the chargeable period or, if lower, an amount equal to the fair value of the collateral as at that time, or
- (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.

Designated FPE entities: non-UK allocated equity and liabilities etc

- 15Z1 Take Steps 1 to 4 to determine the non-UK allocated equity and liabilities attributable to a foreign permanent establishment of a designated FPE entity as at the end of the chargeable period.

Take Step 5 to determine the UK-based equity and liabilities, or (in a case to which paragraph 15K or 15L applies) the adjusted equity and liabilities, of a designated FPE entity as at the end of the chargeable period.

Take Steps 6 and 7 to determine how much of the designated FPE entity's equity and liabilities is to be treated as long term equity and liabilities and how much as short term liabilities for the purposes of the determination at Step 3 in paragraph 6(2).

Step 1 In accordance with paragraph 15G(2), determine the amount ("A") of the assets of the designated FPE entity as at the end of the chargeable period (subject to any adjustment under paragraph 15Z4(1)).

Step 2 In accordance with paragraph 15Z2, determine the amount ("B") of the assets, as at the end of the chargeable period, of the foreign permanent establishment (subject to any adjustment under paragraph 15Z4(2)). The proportion which B is of A is "X%".

Step 3 Determine the amount ("C") that would, if an election under paragraph 15D or 15E had not been made, be the amount of the UK-based equity and liabilities (or the adjusted equity and liabilities) of the entity, by—

- (a) determining the amount of the equity and liabilities of the entity, as at the end of the chargeable period, under paragraph 15G(2), and
- (b) adjusting that amount in accordance with paragraph 15N.

Step 4 The amount of the non-UK allocated equity and liabilities attributable to the foreign permanent establishment is X% of C.

Step 5 To determine the amount ("Z") of the UK-based equity and liabilities, or (in a case to which paragraph 15K or 15L applies) the adjusted equity and liabilities, of the designated FPE entity—

- (a) determine, in accordance with Steps 1 to 4, the amount of the non-UK allocated equity and liabilities attributable to each of the entity's foreign permanent establishments in respect of which an election has been made under paragraph 15D or 15E, and
- (b) reduce C by the total of those amounts.

Step 6 Determine the proportion ("Y%") of C which is long term equity and liabilities.

Step 7 For the purposes of Step 3 in paragraph 6(2) treat Y% of Z as long term equity and liabilities and the rest as short term liabilities.

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- 15Z(1) This paragraph applies for the purposes of Step 2 in paragraph 15Z1.
- (2) The assets of the foreign permanent establishment are those which it would have were it a distinct and separate enterprise which—
- (a) engaged in the same or similar activities under the same or similar conditions, and
 - (b) dealt wholly independently with the designated FPE entity.
- (3) For the purposes of paragraph 15Z1 and this paragraph, any relevant provisions of Chapter 3A of Part 2 of CTA 2009 (UK resident companies: profits of foreign permanent establishments) are to be applied as they would be applied in determining profits attributable to the foreign permanent establishment for corporation tax purposes.
- (4) But in determining the non-UK allocated equity and liabilities attributable to a foreign permanent establishment of a designated FPE entity which is a member of the relevant group, any assets within sub-paragraph (5) are to be left out.
- (5) The assets within this sub-paragraph are any assets of the foreign permanent establishment (as otherwise determined under this paragraph) representing an excluded loan relationship.
- (6) A loan relationship is “excluded” if—
- (a) the designated FPE entity mentioned in sub-paragraph (4) is the creditor,
 - (b) the debtor (“D”) is a UK resident bank, a building society or a relevant foreign bank—
 - (i) which is a member of the relevant group, and
 - (ii) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 79(a),
 - (c) the money which is the subject of the transaction giving rise to D's debt is money borrowed by the designated FPE entity mentioned in sub-paragraph (4) from another entity, and
 - (d) in borrowing that money the designated FPE entity was acting as the agent or intermediary of D.
- (7) Section 302(1) of CTA 2009 (definition of “loan relationship”) applies for the purposes of sub-paragraphs (5) and (6) as it applies for corporation tax purposes.

Netting: non-UK allocated equity and liabilities

- 15Z(1) Paragraph 15Z4 applies for the purposes of Steps 1 and 2 in paragraph 15Z1 if—
- (a) the designated FPE entity mentioned in paragraph 15Z1 (“E”) has liabilities to another entity which (in a case where the bank levy is charged as provided for by paragraph 4 (groups)) is not within sub-paragraph (5) (“E's liabilities”),
 - (b) E recognises, as assets, amounts due from that other entity (“N”) to E (“N's liabilities”),

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- (c) there is in place an agreement between E and N which makes net settlement provision, and
 - (d) that provision is legally effective and enforceable.
- (2) In sub-paragraph (1)(c), “net settlement provision” means provision for there to be a single net settlement—
 - (a) if a netting event occurs, or
 - (b) at the option of E or N, if a netting event occurs.
- (3) The reference in sub-paragraph (2) to a “single net settlement” is a reference to a single net settlement of—
 - (a) all E's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(c)) and
 - (b) all N's liabilities (so far as covered by that provision).
- (4) But a provision for there to be single net settlement—
 - (a) at the option of E, but not at the option of N, if a netting event occurs, or
 - (b) at the option of N, but not at the option of E, if a netting event occurs,
 is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(c).
- (5) An entity is within this sub-paragraph if it is—
 - (a) a UK resident entity which is a member of a UK sub-group,
 - (b) a chargeable UK resident entity, or
 - (c) a relevant foreign bank which is a member of the relevant group.
- (6) For the purposes of sub-paragraph (1)—
 - (a) “agreement” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
 - (b) references to amounts due from N include securities provided by E to N as collateral, but only where E recognises those securities in its balance sheet or statement of financial position, and
 - (c) “a netting event occurs”—
 - (i) in relation to E, if the insolvency or bankruptcy of E gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(c) arises, or
 - (ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.
- (7) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (6) as it applies for the purposes of Chapter 10 of Part 6 of that Act.
- 15Z(4) In determining the amount of E's assets at Step 1 in paragraph 15Z1, the amount of E's net settlement assets is to be reduced (but not below nil) by the amount of E's net settlement liabilities.
- (2) In determining the amount of the foreign permanent establishment's assets at Step 2 in paragraph 15Z1—

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- (a) the reduction in E's assets under sub-paragraph (1) is to be ignored, but
 - (b) the amount of the foreign permanent establishment's net settlement assets is to be reduced by Z%.
- (3) For this purpose, “Z%” is the proportion by which E's net settlement assets are reduced under sub-paragraph (1).
- (4) E's “net settlement liabilities” are E's liabilities so far as they—
 - (a) are covered by the provision mentioned in paragraph 15Z3(1)(c), and
 - (b) are not excluded liabilities.
- (5) E's “net settlement assets” are E's assets so far as corresponding to N's net settlement liabilities.
- (6) “N's net settlement liabilities” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph 15Z3(1)(c).
- (7) The permanent establishment's “net settlement assets” are its assets so far as they are part of E's net settlement assets.

Equity and liabilities: threshold amount

- 15Z(1) If a relevant equity and liabilities amount is less than £50 million, that amount may be ignored for the purposes of determining the chargeable equity and liabilities of the relevant group under paragraph 15.
- (2) But the total amount which may be ignored under sub-paragraph (1) may not exceed £200 million.
 - (3) In sub-paragraph (1), “relevant equity and liabilities amount” means—
 - (a) in the case of a chargeable UK resident entity, the amount of the equity and liabilities, as at the end of the chargeable period, of the entity,
 - (b) in the case of a UK sub-group to which paragraph 15J applies, the amount of the equity and liabilities, as at the end of the chargeable period, of the UK sub-group,
 - (c) in the case of a UK sub-group to which paragraph 15K applies, the total amount of—
 - (i) the equity and liabilities of the residual UK sub-group, and
 - (ii) the equity and liabilities of each designated FPE entity,as at the end of the chargeable period,
 - (d) in the case of a UK sub-group to which paragraph 15L applies, the total amount of the equity and liabilities, as at the end of the chargeable period, of each UK resident entity (whether or not a designated FPE entity) which is a member of the UK sub-group, or
 - (e) in the case of a relevant foreign bank which is a member of the relevant group, the amount of the UK allocated equity and liabilities, as at the end of the chargeable period.”

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2018, Paragraph 2.