
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 7. (See end of Document for details)

SCHEDULES

SCHEDULE 9

BANK LEVY

PART 1

CHARGEABLE EQUITY AND LIABILITIES

Definition of “UK allocated equity and liabilities”

- 7 After paragraph 27 insert—
- “27A(1) Paragraph 27D applies for the purposes of paragraph 27(2)(b) if—
- (a) the bank levy is charged as provided for by paragraph 4 (groups),
 - (b) the relevant foreign bank (“B”) has liabilities to another entity (“N”) which is not within sub-paragraph (5) (“B’s liabilities”),
 - (c) B, 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,
 - (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 B 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 B’s liabilities (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 B, 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 B, 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,
 - (b) a chargeable UK resident entity, or

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- (c) another 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 B, or another member of the relevant group, to N as collateral, but only where B or that other member recognises those securities in its balance sheet or statement of financial position, and
 - (c) “a netting event occurs”—
 - (i) in relation to B, if the insolvency or bankruptcy of B gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(d) 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.
- 27B (1) Paragraph 27D also applies for the purposes of paragraph 27(2)(b) if—
- (a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups),
 - (b) the relevant foreign bank (“B”) has liabilities to another entity (“B’s liabilities”),
 - (c) B recognises, as assets, amounts due from that other entity (“N”) to B (“N’s liabilities”),
 - (d) there is in place an agreement between B and N 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 B 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 B’s liabilities (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 B, 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 B, if a netting event occurs,
- is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(d).
- (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,

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- (b) references to amounts due from N include securities provided by B to N as collateral, but only where B recognises those securities in its balance sheet or statement of financial position, and
 - (c) “a netting event occurs”—
 - (i) in relation to B, if the insolvency or bankruptcy of B gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(d) 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.
- 27C Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of paragraphs 27A(6) and 27B(5) as it applies for the purposes of Chapter 10 of Part 6 of that Act.
- 27D(1) The amount of B's net settlement liabilities is to be reduced (but not below nil) by the amount of B's net settlement assets.
- (2) “B's net settlement liabilities” means B's liabilities so far as they—
 - (a) are covered by the provision mentioned in paragraph 27A(1)(d) or 27B(1)(d), and
 - (b) are not excluded liabilities.
 - (3) “B's net settlement assets” means the assets of—
 - (a) B, or
 - (b) in a case within paragraph 27A, another member of the relevant group,so far as corresponding to N's net settlement liabilities.
 - (4) But, in a case within paragraph 27A—
 - (a) if sub-paragraph (1) of this paragraph applies in relation to more than one relevant foreign bank, no part of an asset may be included in the net settlement assets of more than one of those relevant foreign banks, and
 - (b) if an asset, or part of an asset, is included for the purposes of paragraph 15U in the net settlement assets of a member of the relevant group, the asset (or part) is not to be included in B's net settlement assets for the purposes of this paragraph.
 - (5) “N's net settlement liabilities” means N's liabilities so far as they are covered by the provision mentioned in paragraph 27A(1)(d) or 27B(1)(d).
 - (6) If B's net settlement liabilities exceed B's net settlement assets, and a proportion (A%) of those liabilities is long term liabilities and a proportion (C%) of those liabilities is short term liabilities, under sub-paragraph (1)—
 - (a) the long term liabilities are reduced by A% of B's net settlement assets, and
 - (b) the short term liabilities are reduced by C% of those assets.”

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