
STATUTORY INSTRUMENTS

2006 No. 3269

**The Finance Act 2002, Schedule 26,
(Parts 2 and 9) (Amendment) Order 2006**

Amendment of Part 9 of Schedule 26

Amendment of paragraph 45L of Schedule 26

- 25.—**(1) Amend paragraph 45L(1) (derivatives not embedded in a loan relationship) as follows.
- (2) In sub-paragraph (1) for the words from the beginning to the end of paragraph (a) substitute—
- “ (1) This paragraph applies where—
- (a) a company is party to a non-financial embedded derivative or a nested derivative (“the contract”),”.
- (3) For sub-paragraph (1A) substitute—
- “ (1A) In this paragraph “the original contract” means—
- (a) the non-financial contract mentioned in paragraph 2A to which the company is party, and as a result of which the company falls to be treated under paragraph 2A(2) as party to the non-financial embedded derivative; or
- (b) the hybrid derivative mentioned in paragraph 2B to which the company is party, and as a result of which the company falls to be treated under paragraph 2B(2) as party to the nested derivative.”.
- (4) In sub-paragraph (1B)(b) for the words from “whether” to the end substitute “whether that contract is a hybrid derivative or a non-financial contract”.
- (5) In sub-paragraph (1C)—
- (a) for “a derivative contract” substitute “a hybrid derivative”, and
- (b) for paragraph (a) substitute—
- “ (a) were not one where the rights and liabilities are treated for accounting purposes as divided as mentioned in sub-paragraph (2) of paragraph 2B, and”.
- (6) In sub-paragraph (2)—
- (a) for the words from the beginning to “a derivative contract” substitute “If the contract is a non-financial contract”,
- (b) for paragraph (a) substitute—
- “ (a) were not one where the rights and liabilities are treated for accounting purposes as divided as mentioned in sub-paragraph (2) of paragraph 2A, and”, and
- (c) insert the following words after paragraph (b) (but not as part of that paragraph)—

(1) Paragraph 45L was inserted by article 10 of [S.I. 2004/3270](#) and amended by article 21 of [S.I. 2005/2082](#) and article 12 of [S.I. 2005/3440](#).

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“and, accordingly, this Schedule shall not apply to the contract, but section 42 of the Finance Act 1998 shall apply to the contract as if fair value accounting were not generally accepted accounting practice in relation to the company.”.