
STATUTORY INSTRUMENTS

2022 No. 286

The Taxation of Banks (Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011) Regulations 2022

PART 2

Amendment to the Corporation Tax Act 2009

2. Chapter 9 of Part 3 of the Corporation Tax Act 2009 (trade profits: other specific trades)⁽¹⁾ is amended as follows.

3.—(1) Section 133F (meaning of “excluded company” for purposes of section 133E) is amended as follows.

(2) In subsection (2A)(c), after “being” insert—
“—

(i) in relation to a time on or after 1 January 2022, an FCA investment firm that meets the conditions in section 133H(1B);

(ii) in relation to a time before that date.”

(3) In subsection (4)—

(a) before paragraph (a), insert—

“(za) in relation to a time on or after 1 January 2022, a commodity and emission allowance dealer;”;

(b) in paragraph (a), after “1 January 2014” insert “but before 1 January 2022”.

(4) In subsection (7)—

(a) in the definition of “730k firm”—

(i) in paragraph (a), after “1 January 2014” insert “but before 1 January 2022”;

(ii) in paragraph (b), for “that date” substitute “1 January 2014”;

(b) in the definition of “full scope investment firm”—

(i) in paragraph (a), after “1 January 2014” insert “but before 1 January 2022”;

(ii) in paragraph (b), for “that date” substitute “1 January 2014”;

(c) at the appropriate places insert—

““commodity and emission allowance dealer” has the meaning given by the FCA Handbook at the time in question;”;

““FCA investment firm” has the meaning given by section 143A of FISMA 2000;”.

⁽¹⁾ Sections 133F, 133G and 133H were inserted by section 18(1) of the Finance (No. 2) Act 2015. Sections 133F(2A) and (2B) were inserted by section 56(2) of the Finance Act 2016 (c. 24). Section 133F(7) was amended by sections 56(3) and (4) of the Finance Act 2016.

4. In section 133G (meaning of “relevant regulated activity” for purposes of sections 133E and 133F), in subsection (1), after paragraph (d) insert—

“(da) article 25DA (operating an organised trading facility), but only where dealing on own account in relation to sovereign debt instruments for which there is no liquid market (within the meaning of the Handbook made by the Financial Conduct Authority under FISMA 2000);”.

5.—(1) Section 133H (meaning of “investment bank” for purposes of section 133E) is amended as follows.

(2) After subsection (1) insert—

“(1A) At any time on or after 1 January 2022, the relevant entity is an investment bank if—

- (a) it is an FCA investment firm that meets the conditions in subsection (1B), or
- (b) it is designated by the Prudential Regulation Authority under Article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (dealing in investments as principal: designation by PRA).

(1B) An FCA investment firm meets the conditions in this subsection if it has a permanent minimum capital requirement of £750,000 and is not—

- (a) a limited activity firm,
- (b) a limited licence firm,
- (c) a local firm, or
- (d) a matched principal trading firm.

(1C) In subsection (1B)—

“limited activity firm” means an investment firm that—

- (a) deals on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order; or
- (b) meets all the following conditions—
 - (i) it does not hold client money or securities;
 - (ii) it undertakes only dealing on own account;
 - (iii) it has no external customers; and
 - (iv) its execution and settlement transactions take place under the responsibility of a clearing institution and are guaranteed by that clearing institution;

“limited licence firm” means an investment firm that is not authorised to provide the investment services and activities of—

- (a) dealing on own account; or
- (b) underwriting of financial instruments or placing of financial instruments on a firm commitment basis;

“local firm” means a firm—

- (a) dealing on own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets, or

- (b) dealing for the accounts of other members of those markets and being guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such a firm is assumed by clearing members of the same markets;

“matched principal trading firm” means an investment firm that executes investors’ orders for financial instruments and meets the following conditions—

- (a) the firm only holds financial instruments for its own account as a result of its failure to match investors’ orders precisely;
- (b) the total market value of all such positions is no more than 15% of the firm’s initial capital;
- (c) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

(1D) In determining, for the purposes of subsection (1B), whether an FCA investment firm has a permanent minimum capital requirement of £750,000, any transitional provision in the FCA Handbook is to be disregarded.

(1E) In subsections (1A) to (1D), the following terms have the meaning given by the FCA Handbook—

“dealing on own account”

“financial instrument”;

“initial capital”;

“investment firm”;

“market value”;

“permanent minimum capital requirement”.

(3) In subsection (2), in the words before paragraph (a), after “1 January 2014” insert “but before 1 January 2022”.

(4) In subsection (6), after “subsection”, insert “(1A)(a),”.

(5) In subsection (7), at the appropriate place, insert—

““FCA investment firm” has the meaning given by section 143A of FISMA 2000;”.