

SCHEDULE 11

RELIEF FOR ALTERNATIVE FINANCE INVESTMENT BONDS

PART 4

RELIEF FOR CERTAIN TRANSACTIONS

Relief not available where bond-holder acquires control of underlying asset

- 17 (1) Relief provided under paragraph 13 or 15 (including where the relief is provided under either paragraph as modified by paragraph 18) is not available if control of the underlying asset is acquired by—
- (a) the bond-holder, or
 - (b) a group of connected bond-holders.
- (2) A bond-holder (“BH”), or a group of connected bond-holders, acquires control of the underlying asset if—
- (a) the rights of bond-holders under an alternative finance investment bond include the right of management and control of the bond assets, and
 - (b) BH, or the group, acquires sufficient rights to enable BH, or the members of the group acting jointly, to exercise management and control of the bond assets to the exclusion of any other bond-holders.
- (3) If BH, or the group, acquires control of the underlying asset before the end of the period of 30 days beginning with the effective date of the first transaction, the effect of sub-paragraph (1) is that paragraph 13 does not apply to that transaction.
- (4) If BH, or the group, acquires control of the underlying asset after the end of that period and conditions 1 to 3 have been met, the effect of sub-paragraph (1) is that any relief under paragraph 13 is treated as withdrawn under paragraph 14.
- (5) But sub-paragraph (1) does not prevent the reliefs being available in either of the following cases.
- (6) The first case is where—
- (a) at the time that the rights were acquired BH (or all of the connected bond-holders) did not know and had no reason to suspect that the acquisition enabled the exercise of the right of management and control of the bond assets, and
 - (b) as soon as reasonably practicable after BH (or any of the bond-holders) becomes aware that the acquisition enables that exercise, BH transfers (or some or all of the bond-holders transfer) sufficient rights for that exercise no longer to be possible.
- (7) The second case is where BH—
- (a) underwrites a public offer of rights under the bond, and
 - (b) does not exercise the right of management and control of the bond assets.
- (8) In this paragraph, “underwrite”, in relation to an offer of rights under a bond, means to agree to make payments of capital under the bond in the event that other persons do not make those payments.