
EXPLANATORY NOTE

(This note is not part of the Order)

Schedule 19 to the Finance Act 2011 (c. 11) (“Schedule 19”) introduced a new tax, the bank levy. The bank levy is charged only on the net balance of certain liabilities after certain assets have been offset (“netting”). Netting is permitted to take place where banks or entities within a banking group that falls within the charge to the bank levy, have entered into an agreement with another party for there to be a net settlement of all liabilities in the event of an insolvency or bankruptcy. Included in these agreements are multi-lateral agreements which permit different members of the same banking group to enter into a net settlement agreement with the same counterparties. This Order amends the provisions of Schedule 19 which deal with netting.

Article 1 deals with citation, commencement and effect. This Order will have effect in relation to chargeable periods ending on or after 1 January 2011, which is the first period in which the bank levy applied. The power to make an Order with retrospective effect is contained in paragraph 40(3) of Schedule 19.

Articles 3 to 7 amend paragraphs 16, 18, 20, 22 and 25 of Schedule 19 which are the paragraphs that provide for netting where there are multi-lateral agreements. These amendments ensure that these paragraphs apply to cases where the bank or entity either receives securities as collateral (and subsequently sells them) or provides securities as collateral to a counterparty. The amendments ensure that, in the event of the insolvency of either party, the liabilities and assets recognised on the bank or the entity’s balance sheet from these transactions will qualify for netting.

A Tax Information and Impact Note covering this instrument was published on 23 March 2011 alongside the draft legislation on the bank levy and is available on the HMRC website at http://www.hmrc.gsi.gov.uk/the_library//tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.