

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 11. (See end of Document for details)

SCHEDULES

SCHEDULE 11

Section 86

INSURANCE COMPANIES

Continuing the effect of orders under section 431A(3) of ICTA

- 1 (1) The amendments made by orders under section 431A(3) of ICTA (power to amend provisions in relation to periods of account ending before 1st October 2006) are to continue to have effect in relation to periods of account ending on or after 1st October 2006 as if those amendments were made by this Act.
- (2) Accordingly—
- (a) in section 431A of ICTA omit subsection (5) (power to extend orders under subsection (3) in relation to periods of account ending before 1st October 2007), and
 - (b) in section 432B of ICTA (apportionment of receipts brought into account), as it has effect in relation to periods of account ending on or after 1st October 2006 as a result of sub-paragraph (1), in subsection (4)(b) (application confined to period of accounts ending before 1st October 2006), omit “and ending before 1st October 2006”.

Section 432B apportionment: participating funds

- 2 (1) Section 432E of ICTA is amended as follows.
- (2) In subsection (2A) (increase in amount determined under subsection (2) where amount is taken into account under subsection (2) of section 83 of FA 1989 by virtue of subsection (2B) of that section etc) in the opening words, after “section 444ACA(2)” insert “, 444AF(2) or 444AK(2)”.
- (3) In that subsection, in the definition of “RP”, after paragraph (b) insert—
- “(c) subsection (2) of section 444AF of this Act (and see subsections (5) and (6) of that section);
 - (d) subsection (2) of section 444AK of this Act (but only for the purposes mentioned in subsection (3) of that section).”.
- (4) The amendments made by this paragraph have effect in relation to periods of account ending on or after 29th September 2005.

Transfers of business: excess of assets or liabilities

- 3 F1

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Textual Amendments

- F1** Sch. 11 para. 3 repealed (with effect in accordance with Sch. 9 of the amending Act) by Finance Act 2007 (c. 11), s. 114, {Sch. 27 Pt. 2(9) Note}

Transfers of business: modification of s. 83(2B) of FA 1989

4

F2

Textual Amendments

- F2** Sch. 11 para. 4 repealed (with effect in accordance with Sch. 9 of the amending Act) by Finance Act 2007 (c. 11), s. 114, {Sch. 27 Pt. 2(9) Note}

Surpluses of mutual and former mutual businesses

- 5 (1) After section 444AE of ICTA insert—

“Surpluses of mutual and former mutual businesses

444AF Demutualisation surplus: life assurance business

- (1) This section applies in relation to a period of account of an insurance company (“the relevant period”) if—
- (a) at any time in the relevant period the company carries on life assurance business that is not mutual business,
 - (b) the company has an amount of undistributed demutualisation surplus for the relevant period (see subsection (7)), and
 - (c) there is a reduction in the amount of the company's unappropriated surplus over the relevant period (see section 444AI).
- (2) Where this section applies in relation to the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund whichever of the following amounts is the smallest—
- (a) the amount of the reduction mentioned in subsection (1)(c) above;
 - (b) the amount of the company's undistributed demutualisation surplus for the relevant period;
 - (c) the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).
- (3) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—
- (a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and

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- (b) for that purpose, any amount that falls to be determined in order to determine—
- (i) whether that subsection applies in relation to any such separate revenue account, and
 - (ii) if so, the amount to be brought into account under that subsection in relation to that account,
- shall be determined using only amounts or items which relate to the separate revenue account concerned.
- (4) In applying subsection (2) above in relation to a revenue account or separate revenue account which—
- (a) is recognised for the purposes of section 83 of that Act, and
 - (b) is one in relation to which sections 432C and 432D apply,
- that subsection shall have effect as if for “smallest” there were substituted “smaller ” and as if paragraph (c) were omitted.
- (5) This section shall have effect—
- (a) for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the company's life assurance business, and
 - (b) for the purposes of so computing the profits of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.
- (6) But for the purposes mentioned in subsection (5)(b) above, this section and section 444AG have effect subject to the modification in section 444AH; and the Corporation Tax Acts have effect accordingly (so that there may, in particular, be a difference between—
- (a) the amount deemed to be brought into account by virtue of subsection (2) above for a period of account for those purposes, and
 - (b) the amount so deemed to be brought into account for that period of account for the purposes mentioned in subsection (5)(a) above).
- (7) For the purposes of this section, the undistributed demutualisation surplus of an insurance company for the relevant period is—
- (a) an amount equal to $(UDSP - AD + DTSI - DTSO)$; or
 - (b) if that amount is a negative amount, nil.

For this purpose—

UDSP is the undistributed demutualisation surplus of the company for the period of account immediately preceding the relevant period,

AD is any amount deemed under this section to be brought into account for the period of account immediately preceding the relevant period as an increase in the value of the assets of the company's long-term insurance fund,

DTSI is the total amount of any demutualisation transfer surpluses accruing to the company during the relevant period (see section 444AG),

DTSO is the total amount of any demutualisation transfer surpluses accruing to any other company (or companies) during the relevant

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period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).

444AG Section 444AF: “demutualisation transfer surplus”

- (1) For the purposes of section 444AF and this section, a demutualisation transfer surplus accrues to an insurance company where—
 - (a) life assurance business is transferred to the company by a person (“the transferor”),
 - (b) after the transfer, the company carries on the transferred business otherwise than as mutual business, and
 - (c) the condition in subsection (2) below is satisfied in relation to the transfer.
- (2) The condition is that—
 - (a) immediately before the transfer, the transferor carried on the transferred business as mutual business, or
 - (b) where paragraph (a) above does not apply, some or all of the transferred business was carried on by an insurance company as mutual business at a time on or after 1st January 1990 and before the transfer (“former mutual business”).
- (3) The demutualisation transfer surplus accrues to the company on the date of the transfer.
- (4) The amount of the demutualisation transfer surplus is given by subsection (5) or (6) below.
- (5) Where subsection (2)(a) above applies, the amount of the demutualisation transfer surplus is—
 - (a) where the whole of the transferor's life assurance business was transferred to the company under the transfer, the aggregate of—
 - (i) the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer, and
 - (ii) the amount of any added surplus accruing to the company in connection with the transfer (see subsection (10));
 - (b) otherwise, a just and reasonable portion of that aggregate amount, having regard to how much of the transferor's life assurance business was transferred to the company under the transfer.
- (6) Where subsection (2)(b) above applies, the amount of the demutualisation transfer surplus is—
 - (a) where the whole of the transferor's life assurance business was transferred to the company under the transfer and all of the transferred business is former mutual business, the former mutual surplus of the transferor on the transfer date (see subsection (7));
 - (b) otherwise, so much of that former mutual surplus as it is just and reasonable to attribute to the company, having regard in particular to—
 - (i) how much of the transferor's life assurance business was transferred to the company under the transfer, and

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- (ii) how much of the transferred business is former mutual business.
- (7) For the purposes of subsection (6) above, the former mutual surplus of the transferor on the transfer date is—
- (a) the amount given by subsection (8) below, or
 - (b) if less, the amount given by subsection (9) below.
- (8) The amount given by this subsection is the total amount of any demutualisation transfer surpluses accruing to the transferor—
- (a) on or after 1st January 1990, and
 - (b) on or before the date of the transfer.
- (9) The amount given by this subsection is the lowest amount of unappropriated surplus of the transferor at the end of any period of account ending—
- (a) on or after the date of the last occasion on which a demutualisation transfer surplus accrued to it as mentioned in subsection (8) above, and
 - (b) on or before the date of the transfer.
- (10) For the purposes of this section, added surplus accrues to the company in connection with the transfer if—
- (a) an amount of assets is received by the company in connection with the transfer, no later than six months after the date of the transfer,
 - (b) the amount is not brought into account by the company,
 - (c) the amount is added to the unappropriated surplus of the company, and
 - (d) the amount does not derive from any unappropriated surplus of the transferor;
- and the amount of the added surplus is the amount referred to in paragraphs (a) to (d) above.

444AH Modification of section 444AG etc for Case VI businesses

- (1) The modification in this section has effect for the purposes mentioned in section 444AF(5)(b) only.
- (2) In relation to any demutualisation transfer surplus accruing to a company in a post-2002 period of account—
- (a) the references in section 444AG(5) to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer shall be taken to be references to—
 - (i) the amount of that unappropriated surplus, or
 - (ii) if less, the unappropriated surplus of the transferor at the end of the period of account immediately preceding the first post-2002 period of account of the transferor; and
 - (b) the references in sections 444AF and 444AG to the amount of any demutualisation transfer surplus are to have effect accordingly.

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- (3) In this section “post-2002 period of account”, in relation to an insurance company, means a period of account of the company beginning on or after 1st January 2003 and ending on or after 9th April 2003.

444AI Section 444AF: “reduction in company's unappropriated surplus”

- (1) For the purposes of section 444AF—
- (a) there is a reduction in the amount of the company's unappropriated surplus over the relevant period if CUS is less than $(OUS + TSI - TSO)$;
 - (b) the amount of that reduction is the amount by which CUS is less than $(OUS + TSI - TSO)$.
- (2) In this section—
- CUS is the amount of the company's unappropriated surplus at the end of the relevant period,
- OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,
- TSI is the total amount of any transfer surpluses accruing to the company during the relevant period (see subsections (3) to (7)),
- TSO is the total amount of any transfer surpluses accruing to any other company (or companies) during the relevant period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).
- (3) For the purposes of this section, a transfer surplus accrues to an insurance company where life assurance business is transferred to the company by a person (“the transferor”).
- (4) The transfer surplus accrues to the company on the date of the transfer.
- (5) The amount of the transfer surplus is equal to so much of the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer as is transferred to the company under the transfer.
- (6) But if, immediately before the transfer, the transferor carried on the transferred business as mutual business, the amount of the transfer surplus is the aggregate of—
- (a) the amount given by subsection (5) above, and
 - (b) the amount of any added surplus accruing to the company in connection with the transfer.
- (7) Subsection (10) of section 444AG applies for the purposes of subsection (6) above as it applies for the purposes of that section.

444AJ Sections 444AF and 444AK: “relevant receipts reduction”

- (1) For the purposes of sections 444AF and 444AK, the amount of the company's relevant receipts reduction for the relevant period is to be calculated by—

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- (a) determining, in the case of each with-profits fund of the company, the amount given by subsection (2) or (6) below for the relevant period, and
 - (b) aggregating each of those amounts.
- (2) The amount, in the case of a fund other than a policy holder participation fund, is—
- (a) where the gross transfer to non-technical account for the fund for the relevant period (see subsections (3) and (4)) is greater than the post-policy holder surplus for the fund for the relevant period (see subsection (5)), the amount of the difference;
 - (b) otherwise, nil.
- (3) In this section “the gross transfer to non-technical account” means the amount shown in line 13 of Form 58 for the fund.
- (4) But if—
- (a) there is a transfer from a with-profits fund of the company to another fund of the company (“the initial transfer”) which is shown in (or included in an amount shown in) line 14 of Form 58 for the with-profits fund,
 - (b) there is a transfer from a fund of the company (whether or not the other fund mentioned in paragraph (a) above) to the non-technical account which is shown in (or included in an amount shown in) line 13 of Form 58 for that fund, and
 - (c) the transfer to the non-technical account can reasonably be regarded as connected with the initial transfer,
- the amount of the gross transfer to non-technical account for the relevant period given by subsection (3) above in the case of the with-profits fund is to be increased by the amount transferred to the non-technical account.
- (5) In this section “post-policy holder surplus” means an amount equal to—

SA – TAP

where—

SA is—

- (a) the amount shown in line 34 of Form 58 for the fund (surplus arising since last valuation), or
- (b) if that amount is a negative amount, nil;

TAP is the amount shown in line 46 of Form 58 for the fund (total allocated to policy holders).

- (6) The amount, in the case of a policy holder participation fund, is—
- (a) where TAP is greater than SA, the amount of the difference;
 - (b) otherwise, nil;
- and for this purpose “SA” and “TAP” have the same meaning as in subsection (5) above.

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- (7) References in this section to Form 58 are references to that Form in the periodical return of the company for the relevant period.
- (8) In this section “policy holder participation fund” means a fund in the case of which an amount equal to the amount shown in line 34 of Form 58 for the fund is allocated to policy holders for the relevant period.

444AK Mutual surplus: Case VI categories of life assurance business

- (1) This section applies if at any time in a period of account of an insurance company (“the relevant period”)—
 - (a) the company carries on life assurance business as mutual business, and
 - (b) the company carries on one or more categories of life assurance business chargeable to tax under Case VI of Schedule D.
- (2) If there is a reduction in the amount of the company's unappropriated surplus over the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund—
 - (a) the amount of that reduction, or
 - (b) if less, the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).
- (3) But subsection (2) above shall have effect only for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits for the relevant period of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.
- (4) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—
 - (a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and
 - (b) for that purpose, any amount that falls to be determined in order to determine—
 - (i) whether that subsection applies in relation to any such separate revenue account, and
 - (ii) if so, the amount to be brought into account under that subsection in relation to that account,
 shall be determined using only amounts or items which relate to the separate revenue account concerned.
- (5) In applying subsection (2) above in relation to a revenue account or separate revenue account which—
 - (a) is recognised for the purposes of section 83 of that Act, and
 - (b) is one in relation to which sections 432C and 432D apply,
 that subsection shall have effect as if paragraph (b) and the word “or” before it were omitted.

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- (6) For the purposes of this section, there is a reduction in the amount of the company's unappropriated surplus over the relevant period if—
- (a) CUS is less than OUS, and
 - (b) CUS is less than UUS.
- (7) The amount of that reduction is—
- (a) the amount by which CUS is less than OUS, or
 - (b) if OUS is greater than UUS, the amount by which CUS is less than UUS.
- (8) In this section—
- CUS is the amount of the company's unappropriated surplus at the end of the relevant period,
- OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,
- UUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the first period of account of the company to begin on or after 1st January 2003 and to end on or after 9th April 2003.

444AL Interpretation of sections 444AF to 444AK

- (1) This section applies for the purposes of sections 444AF to 444AK.
 - (2) References to mutual business, in relation to any time, include business which at that time is treated for the purposes of section 432E as mutual business.
 - (3) “Unappropriated surplus”, in relation to a period of account of an insurance company, means an unappropriated surplus on valuation as shown in the periodical return of the company for the period of account.
 - (4) References to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer are, where a period of account of the transferor does not end at that time, references to the unappropriated surplus on valuation that would have been shown in a periodical return of the transferor for that period had such a return been drawn up.”.
- (2) The amendment made by this paragraph has effect in relation to periods of account ending on or after 29th September 2005.
- (3) In determining for the purposes of section 444AF of ICTA the undistributed demutualisation surplus of an insurance company for the first period of account of the company to end on or after 29th September 2005 and before 22nd March 2006 (“the transitional period”), the value of UDSP in subsection (7) of that section is to be taken to be—
- (a) the amount given by sub-paragraph (4), or
 - (b) if less, the amount given by sub-paragraph (5).
- (4) The amount given by this sub-paragraph is the total amount of any demutualisation transfer surpluses accruing to the company—
- (a) on or after 1st January 1990, and

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- (b) before the beginning of the transitional period.
- (5) The amount given by this sub-paragraph is the lowest amount of unappropriated surplus of the company at the end of any period of account ending—
- (a) on or after the date of the last occasion on which a demutualisation transfer surplus accrued to it as mentioned in sub-paragraph (4), and
 - (b) before the beginning of the transitional period.
- (6) Sections 444AF(3), 444AG, 444AH and 444AL of ICTA apply for the purposes of sub-paragraphs (3) to (5), but section 444AG has effect subject to the following modifications—
- (a) in subsection (5)(a), omit—
 - (i) the words “the aggregate of”,
 - (ii) sub-paragraph (ii), and
 - (iii) the word “and” before that sub-paragraph;
 - (b) in subsection (5)(b), for “that aggregate amount” substitute “ that unappropriated surplus ”;
 - (c) omit subsection (10).
- (7) In determining the value of DTSI for the purposes of section 444AF(7) of ICTA where the relevant period ends on or after 29th September 2005 and before 22nd March 2006, section 444AG of ICTA has effect subject to the modifications specified in sub-paragraph (6).
- (8) Where the relevant period ends on or after 29th September 2005 and before 22nd March 2006, section 444AI of ICTA has effect as if subsections (6) and (7) of that section were omitted.
- (9) Sub-paragraphs (10) to (12) apply in relation to an insurance company if—
- (a) a period of account of the company did not end on or after 29th September 2005 and before 22nd March 2006;
 - (b) any value of UDSP given by sub-paragraph (3) in relation to the company is lower than it would have been if the words from “but” in sub-paragraph (6) to the end of that sub-paragraph had been omitted; or
 - (c) any value of DTSI in section 444AF(7) of ICTA for any period of account of the company ending on or after 29th September 2005 and before 22nd March 2006 is, by virtue of sub-paragraph (7), lower than it would have been if that sub-paragraph had been omitted.
- (10) In determining for the purposes of section 444AF of ICTA the undistributed demutualisation surplus of an insurance company for the first period of account of the company to end on or after 22nd March 2006 (“the initial period”), the value of UDSP in subsection (7) of that section is to be taken to be—
- (a) the amount given by sub-paragraph (11), or
 - (b) if less, the amount given by sub-paragraph (12).
- (11) The amount given by this sub-paragraph is the total amount of any demutualisation transfer surpluses accruing to the company—
- (a) on or after 1st January 1990, and
 - (b) before the beginning of the initial period.
- (12) The amount given by this sub-paragraph is the lowest amount of unappropriated surplus of the company at the end of any period of account ending—

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- (a) on or after the date of the last occasion on which a demutualisation transfer surplus accrued to it as mentioned in sub-paragraph (11), and
 - (b) before the beginning of the initial period.
- (13) Sections 444AF(3), 444AG, 444AH and 444AL of ICTA apply for the purposes of sub-paragraphs (10) to (12).
- (14) In relation to any period of account ending before 31st December 2005, the references in section 444AJ(5) and (8) of ICTA to line 34 of Form 58 are to be taken to be references to line 35 of Form 58.

Receipts to be taken into account

- 6 (1) Section 83 of FA 1989 is amended as follows.
- (2) ^{F3}
- (3) After subsection (2D) (exclusion if assets transferred for fair value and consideration forms part of long-term insurance fund) insert—
- “(2DA) If—
- (a) assets of the company's long-term insurance fund are transferred by the company to another person (“the transferee”),
 - (b) the transferee assumes, as a result of the transfer, a liability representing a debenture loan which, immediately before the transfer, was a liability of that fund, and
 - (c) the liability does not, as a result of the transfer, become a liability of any long-term insurance fund of the transferee,
- so much of the fair value of the assets as does not exceed the fair value of the liability is excluded from subsection (2B) above.”
- (4) In subsection (8) (definitions), in the definition of “fair value”, for “, in relation to assets,” to “its amount;” substitute “—
- (a) in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount;
 - (b) in relation to liabilities, means the amount which would be paid to an independent person assuming them;”.
- (5) The amendments made by this paragraph have effect in relation to transfers taking place on or after 22nd March 2006.

Textual Amendments

F3 Sch. 11 para. 6(2) repealed (with effect in accordance with Sch. 9 of the amending Act) by Finance Act 2007 (c. 11), s. 114, {Sch. 27 Pt. 2(9) Note}

Changes in value of assets brought into account: non-profit companies

- 7 (1) After section 83 of FA 1989 insert—

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“83YA Changes in value of assets brought into account: non-profit companies

- (1) This section applies if, in the case of any non-profit company,—
 - (a) the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for any period of account (“the current period of account”), exceeds
 - (b) the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds (if any) for that period.
- (2) A comparison shall be made between—
 - (a) the appropriate line 51 amount of the company for the current period of account (“the current line 51 amount”), and
 - (b) the aggregate amount of the appropriate line 51 amount of the company for the previous period of account (if any) and the amount of any transfer-in amount of the company for that period.
- (3) If the current line 51 amount is greater than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as an increase in the value of non-linked assets.
- (4) If the current line 51 amount is less than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as a decrease in the value of non-linked assets.
- (5) The amount brought into account by virtue of this section shall be deemed for the purposes of section 83(2) to be brought into account—
 - (a) in the revenue account mentioned in section 83A(2)(a), or
 - (b) if section 83A(4) is applicable, in the separate revenue account treated as prepared by virtue of that provision.
- (6) Any amount brought into account by virtue of this section is in addition to any amount brought into account for the purposes of section 83(2) for the current period of account as an increase or decrease in the value of non-linked assets apart from this section.
- (7) For the purposes of this section a company has a transfer-in amount for any period of account (“the previous period of account”) if—
 - (a) a transfer takes place in the following period of account, and
 - (b) the company, as the transferee, is a party to an election under section 444AD of the Taxes Act 1988 (transfers of business: modification of section 83(2B)),
 and the amount of the transfer-in amount for the previous period of account is the amount specified in subsection (4) of that section.
- (8) For the purposes of this section and section 83YB “non-profit company”, in relation to a period of account, means a company carrying on long-term business where, at the end of that period,—
 - (a) none of the liabilities of that business, or
 - (b) none but an insignificant proportion of those liabilities,

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are with-profits liabilities.

- (9) But if a company considers that, in relation to a period of account, it is no longer such a company, it may elect to be treated for the purposes of this section and section 83YB as if, in relation to that period of account and every subsequent period of account, it were a non-profit company.
- (10) Any such election—
- (a) is irrevocable, and
 - (b) must be made by notice to an officer of the Board on or before the end of the period of 6 months beginning with the day on which that period of account ends.
- (11) For the purposes of this section and section 83YB—
- “amount”, in relation to line 51 of Form 14 of the company's periodical return, includes a nil amount;
 - “with-profits fund” has the same meaning as in the Integrated Prudential Sourcebook.

83YB Meaning of “appropriate line 51 amount” for purposes of s.83YA

- (1) For the purposes of section 83YA, the appropriate line 51 amount of a non-profit company for any period of account is determined as follows.

Step 1

Find the company's basic line 51 amount for the period of account.

Step 2

Reduce that amount (but not below nil) by the amount of any unrecognised capital amount of the company for the period of account.

But this step applies only if the period of account for which the appropriate line 51 amount of the company is being determined is the current period of account for the purposes of section 83YA.

Step 3

Increase the resulting amount by the amount of any relevant loan repayment made by the company in the period of account.

- (2) For the purposes of step 1, the company's basic line 51 amount for any period of account is—
- (a) in the case where no with-profits funds form part of its long-term business for that period, the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for that period, and
 - (b) in any other case, so much of that amount as exceeds the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds for that period.
- (3) For the purposes of step 2, the company has an unrecognised capital amount for any period of account if—

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- (a) any assets (“the added assets”) become assets of its long-term insurance fund but do not become assets of any of its with-profits funds,
 - (b) the consideration for the acquisition of the added assets does not comprise any assets which, immediately before the acquisition, were assets of its long-term insurance fund,
 - (c) no amount is shown in respect of the added assets in any of lines 17 to 41 of Form 14 of its periodical return in respect of the whole of its long-term business for the period of account, and
 - (d) no amount is brought into account for the period of account in consequence of the acquisition of the added assets.
- (4) For the purposes of step 2, the amount of the unrecognised capital amount for the period of account is the amount equal to the fair value of the added assets.
- (5) For this purpose the “fair value of the added assets” means—
- (a) the amount which would be obtained from an independent person purchasing them, or
 - (b) if the assets are money, its amount.
- (6) For the purposes of step 3, a relevant loan repayment is made by the company in any period of account if—
- (a) a repayment in respect of a loan is made by the company in the period of account, and
 - (b) the loan is one in relation to which the company has, for the purposes of step 2, an unrecognised capital amount for that or any other period of account.”.
- (2) The amendment made by this paragraph has effect in relation to periods of account ending on or after 29th September 2005.
- (3) There are the following modifications of sections 83YA and 83YB of FA 1989 in the case of any period of account of a company (“the straddling period of account”)—
- (a) beginning before 29th September 2005, and
 - (b) ending on or after that date.
- (4) The modifications are that sections 83YA and 83YB of FA 1989 have effect in relation to the straddling period of account (as “the current period of account”) as follows.

First modification

Determine the company's basic line 51 amount for the previous period of account by reference to the last period of account (if any) of the company ending before 1st January 2004.

Second modification

Increase the amount of any transfer-in amount of the company for the previous period of account by the aggregate amounts of any transfer-in amounts of the company for any period of account beginning on or after 1st January 2004 and ending before the previous period of account.

Third modification

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Increase the amount of any unrecognised capital amount of the company for the straddling period of account by the aggregate amounts of unrecognised capital amounts of the company for any period of account beginning on or after 1st January 2004 and ending before the straddling period of account.

Fourth modification

Reduce (but not below nil) the company's basic line 51 amount for the straddling period of account by the appropriate amount of any resilience capital for the straddling period of account.

For this purpose “the appropriate amount of any resilience capital for the straddling period of account” means the amount by which—

- (a) the amount shown in line 32 of Form 2 of the company's periodical return in respect of the whole of its long-term business for the straddling period of account, exceeds
 - (b) the amount of any unrecognised capital amount of the company for that period as determined in accordance with the third modification.
- (5) In any case where any of the above modifications apply—
- (a) no amount is to be brought into account for the straddling period of account by virtue of subsection (4) of section 83YA of FA 1989, and
 - (b) no amount is to be brought into account for subsequent periods of account by virtue of that subsection, except so far as an amount has been brought into account for a previous period of account by virtue of subsection (3) of that section (and has not previously been taken into account under this paragraph).
- (6) If, as a result of the fourth modification, the company's basic line 51 amount for the straddling period of account is reduced by an amount (“the reduction”)—
- (a) sections 83YA and 83YB of FA 1989 have effect in relation to the company's next period of account after the straddling period of account as if the appropriate line 51 amount of the company for the straddling period of account were determined without making the fourth modification, and
 - (b) the following adjustments are made.
- (7) An amount equal to two-thirds of the reduction is to be deemed to be brought into account for the company's first period of account beginning on or after 1st January 2007 by virtue of subsection (3) of section 83YA of FA 1989.
- (8) An amount equal to one-third of the reduction is to be deemed to be brought into account for the company's next period of account by virtue of subsection (3) of section 83YA of FA 1989.
- (9) But if the company ceases to carry on long-term business at any time—
- (a) before 1st January 2007, or
 - (b) before the end of its first period of account beginning on or after 1st January 2007,
- the whole of the reduction is to be deemed to be brought into account for the company's period of account ending immediately before that time by virtue of subsection (3) of section 83YA of FA 1989.
- (10) Any amount brought into account by virtue of any of sub-paragraphs (7) to (9) is in addition to—

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- (a) any amount that, apart from those sub-paragraphs, is brought into account by virtue of subsection (3) of section 83YA of FA 1989, or
 - (b) any amount that is brought into account by virtue of subsection (4) of that section.
- (11) Any expression which is used in this paragraph and in section 83YA or 83YB of FA 1989 has the same meaning in this paragraph as it has in that section.

Contingent loans

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Textual Amendments

F4 Sch. 11 para. 8 omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 17 para. 3(c)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 11.