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Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 7A

BANKING COMPANIES

CHAPTER 2

KEY DEFINITIONS

[^{F1}“Banking company”

Textual Amendments

- F1** Pt. 7A inserted (with effect in accordance with Sch. 2 para. 7-9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 2 para. 1](#)

269B Meaning of “banking company”

- (1) In this Part “banking company”, in relation to an accounting period, means—
- (a) a company which meets conditions A to E,
 - (b) a company which—
 - (i) meets conditions A and B, and
 - (ii) is a member of a partnership which meets conditions C to E, or
 - (c) a building society.

In subsections (4) to (6) “the relevant entity” means the company or the partnership (as the case may be).

- (2) Condition A is that at any time during the accounting period the company—
- (a) is a UK resident company, or

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- (b) is a company which carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- (3) Condition B is that the company is not an excluded entity at any time during the accounting period (see section 269BA).
- (4) Condition C is that, at any time during the accounting period, the relevant entity is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act).
- [^{F2}(5) Condition D is that, at any time in the accounting period—
- (a) the relevant entity's activities include the relevant regulated activity described in the provision mentioned in section 269BB(a), or
- (b) the relevant entity is an investment bank (see subsection (6A)) whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f).]
- (6) Condition E is that the relevant entity carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade.
- [The relevant entity is an “investment bank” if—
- ^{F3}(6A) (a) it is both an IFPRU 730k firm and a full scope IFPRU investment firm, 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).]
- (7) See also section 269BC (which contains definitions of terms used in this section).

Textual Amendments

- F2** S. 269B(5) substituted (retrospective to 26.3.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. 20(9)(10)(a)
- F3** S. 269B(6A) inserted (retrospective to 26.3.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. 20(9)(10)(b)

269BA Excluded entities

- (1) For the purposes of section 269B “excluded entity” means any of the following entities—
- (a) an insurance company or an insurance special purpose vehicle;
- (b) an entity which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or insurance special purpose vehicle which is a member of the group;
- (c) an entity which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme;
- (d) an investment trust;
- (e) an entity which does not carry on any relevant regulated activities other than asset management activities;
- (f) an exempt IFPRU commodities firm ^{F4}...;
- (g) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives;
- (h) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences—

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- (i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or
 - (ii) with another person to enable the entity or other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients;
 - (i) a society incorporated under the Friendly Societies Act 1992;
 - (j) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12));
 - (k) a building society.
- [For the purposes of section 269B an entity is also an “excluded entity” if—
- ^{F5}(1A) (a) the entity would fall within a relevant relieving provision but for one (and only one) line of business which it carries on,
- (b) that line of business does not involve the relevant regulated activity described in the provision mentioned in section 269BB(a), and
- (c) the entity's activities in that line of business would not, on their own, result in it being both an IFPRU 730k firm and a full scope IFPRU investment firm.
- (1B) For the purposes of subsection (1A) the “relevant relieving provisions” are paragraphs (b), (c), (e), (g) and (h) of subsection (1).]
- (2) For the meaning of “relevant regulated activity”, see section 269BB.

See also section 269BC (which contains definitions of other terms used in this section).

Textual Amendments

- F4** Words in s. 269BA(1)(f) omitted (retrospective to 26.3.2015) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), s. 20\(9\)\(11\)](#)
- F5** S. 269BA(1A)(1B) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 56\(8\)](#)

269BB Relevant regulated activities

In this Part “relevant regulated activity” means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)—

- (a) article 5 (accepting deposits);
- (b) article 14 (dealing in investments as principal);
- (c) article 21 (dealing in investments as agent);
- (d) article 25 (arranging deals in investments);
- (e) article 40 (safeguarding and administering investments);
- (f) article 61 (entering into regulated mortgage contracts).

269BC Banking companies: supplementary definitions

- (1) This section contains definitions of terms used in sections 269B to 269BB (and this section).

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- (2) “Asset management activities” means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—
- (a) acting as the operator of a collective investment scheme (within the meaning of Part 17 of FISMA 2000: see sections 235 and 237 of that Act),
 - (b) acting as a discretionary investment manager for clients none of which is a linked entity (see subsection (3)), and
 - (c) acting as an authorised corporate director.

- (3) In subsection (2)(b) “linked entity”, in relation to an entity (“E”), means—
- (a) a member of the same group as E,
 - (b) a company in which a company which is a member of the same group as E has a major interest (within the meaning of Part 5 of CTA 2009: see section 473 of that Act), or
 - (c) a partnership the members of which include an entity—
 - (i) which is a member of the same group as E, and
 - (ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the relevant accounting period is at least a 40% share (see Part 17 of CTA 2009 for provisions about shares of partnership profits and losses).

“The relevant accounting period” means the accounting period referred to in section 269B(3).

- (4) “Building society” has the same meaning as in the Building Societies Act 1986.
- (5) “Insurance company” and “insurance special purpose vehicle” have the meanings given by sections 65 and 139 of FA 2012 respectively.
- (6) “Partnership” includes—
- (a) a limited liability partnership, and
 - (b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,
- and “member”, in relation to a partnership, is to be read accordingly.
- (7) The terms in subsection (8)—
- (a) in relation to a PRA-authorised person, have the meaning given by the PRA Handbook;
 - (b) in relation to any other authorised person, have the meaning given by the FCA Handbook.

- (8) The terms referred to in subsection (7) are—
- “authorised corporate director”;
 - F6
 - “contracts for differences”;
 - “discretionary investment manager”;
 - F6
 - “exempt IFPRU commodities firm”;
 - F6
 - “full scope IFPRU investment firm”;
 - “IFPRU 730k firm”;

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“pension scheme”;
“principal”;
“retail client”.

^{F7}(9)

(10) A company or partnership which would be an IFPRU 730k firm and a full scope IFPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom is to be treated as being one for the purposes of section 269B.

(11) In subsection (7)—

“authorised person” and “PRA-authorised person” have the same meaning as in FISMA 2000;

“the FCA Handbook” means the Handbook made by the Financial Conduct Authority under FISMA 2000 (as that Handbook has effect from time to time);

“the PRA Handbook” means the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook has effect from time to time).]

Textual Amendments

F6 Words in s. 269BC(8) omitted (retrospective to 26.3.2015) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. 20(9)(12)(a)

F7 S. 269BC(9) omitted (retrospective to 26.3.2015) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. 20(9)(12)(b)

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