

Changes to legislation: Finance Act 2014, SCHEDULE 33A is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 33A

Section 235

PROMOTION STRUCTURES

Textual Amendments

- F1** Sch. 33A inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 10

Cases in which a person is a member of a promotion structure.

- 1 A person (“A”) is a member of a promotion structure if A falls within—
- the case described in paragraph 2 (multiple entity promoter),
 - the case described in paragraph 3 (acting for a non-resident promoter),
 - the case described in paragraph 4 (control of another promoter), or
 - the case described in paragraph 5 (transfer of promotion business).

Multiple entity promoter

- 2 (1) A falls within this case if—
- A and one or more other persons carry out activities between them that if carried out by a single person would cause that person to be a promoter within the meaning of section 235(2) or (3), and
 - each of the persons carrying out those activities is closely related to at least one other of those persons.
- (2) A person (“D”) is closely related to another person (“E”) if—
- D is able to secure that E acts in accordance with D's wishes (or vice versa),
 - E typically acts in accordance with D's wishes,
 - it is reasonable to expect that E will act in accordance with D's wishes,
 - a third person is able to secure that D and E act in accordance with the third person's wishes,
 - D and E typically act in accordance with a third person's wishes,
 - it is reasonable to expect that D and E will act in accordance with a third person's wishes, or
 - the 50% investment condition is met in relation to D and E.
- (3) The 50% investment condition is met in relation to D and E if—
- D has a 50% investment in E (or vice versa), or
 - a third person has a 50% investment in each of D and E.

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- (4) Subsections (3) to (9) of section 259ND of TIOPA 2010 apply for the purposes of determining whether a person has a “50% investment” in another person, and references in those subsections to X% are to be read as references to 50%.

Acting for a non-resident promoter

- 3 (1) A falls within this case if A acts under the instruction or guidance of a person (“O”) who carries on a business as a promoter and who is resident outside the United Kingdom, and—
- (a) A does any of the things mentioned in sub-paragraph (2) under that instruction or guidance, or
 - (b) A receives remuneration (of any kind) from O in connection with the business carried on by O.
- (2) The things referred to in sub-paragraph (1)(a) are—
- (a) being a promoter;
 - (b) facilitating any activity by virtue of which a person would be a promoter (for example, by facilitating the organisation of relevant arrangements or by facilitating the making of a relevant proposal available for implementation).
- (3) For the purposes of sub-paragraph (1)(b), reference to A receiving remuneration from O includes—
- (a) A receiving any payment or benefit as a consequence of instructions given by O (whether or not O is the source of that payment or benefit);
 - (b) A receiving any payment or benefit as a consequence of any arrangements that O made or participated in the making of, or that are referable to the business carried on by O (which may include relevant arrangements, or arrangements implementing a relevant proposal, promoted by O or which are otherwise referable to that business).
- (4) For the purposes of this paragraph a person is a promoter if the person meets the description of a promoter in section 235(2) or (3) (whether or not the person carries on a business).

Control of another promoter

- 4 (1) A falls within this case if—
- (a) A is an individual who controls, or has significant influence over, a body corporate or a partnership (“B”) that carries on a business as a promoter, and
 - (b) A meets the personal condition or the corporate condition.
- (2) The personal condition is that, at any time after A first controlled or had significant influence over B—
- (a) A was subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),
 - (b) A was bankrupt, or A's estate had been sequestrated under the Bankruptcy (Scotland) Act 2016,
 - (c) A was the subject of an individual voluntary arrangement under Part 8 of the Insolvency Act 1986,

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- (d) A's estate was subject to a protected trust deed (see section 163 of the Bankruptcy (Scotland) Act 2016),
 - (e) A was subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order,
 - (f) A was subject to a debt relief order, or
 - (g) A was subject to a debt relief restrictions order or interim debt relief restrictions order.
- (3) The corporate condition is that at any time A controlled, or had significant influence over, a person (other than B) that carried on business as a promotor that was—
- (a) a body corporate or a partnership that was dissolved or became insolvent,
 - (b) a body corporate that became dormant,
 - (c) a company formed and registered under the Companies Act 2006 (see section 1 of that Act) that made an application under section 1003 of that Act to strike the company's name off the register, or
 - (d) a company formed and registered under that Act in respect of which the registrar (within the meaning of that Act) has published a notice under section 1000(3) or 1001(1) of that Act, if two months have passed since the publication of that notice.
- (4) For the purposes of this paragraph, the circumstances in which a body corporate or partnership becomes insolvent include—
- (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
 - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
 - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
 - (d) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
 - (e) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
 - (f) if a bank administration order takes effect under Part 3 of that Act, or
 - (g) on the occurrence of any corresponding circumstances which have effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (5) For the purposes of this paragraph, a body corporate is dormant if—
- (a) in the case of a body corporate incorporated in the United Kingdom, it is dormant within the meaning given by section 1169 of the Companies Act 2006, or
 - (b) in any other case, it would be dormant within the meaning of that section if the body corporate were incorporated in the United Kingdom.
- (6) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of “control” and “significant influence”) apply to this paragraph as they apply to Part 2 of that Schedule.
- (7) In this paragraph—

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“bankruptcy restrictions order” or “interim bankruptcy restrictions order” means such an order (or as the case may be, undertaking) under—

- (a) Schedule 4A to the Insolvency Act 1986,
- (b) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
- (c) Part 13 of the Bankruptcy (Scotland) Act 2016 (asp 21);

“debt relief order” means such an order under—

- (a) Part 7A of the Insolvency Act 1986, or
- (b) Part 7A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

“debt relief restrictions order” or “interim debt relief restrictions order” means such an order (or as the case may be, undertaking) under—

- (a) Schedule 4ZB to the Insolvency Act 1986, or
- (b) Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Transfer of promotion business

- 5 (1) A falls within this case if—
- (a) there has been a relevant transfer to A, or
 - (b) there has been a relevant transfer to a body corporate or partnership that A controls, or has significant influence over.
- (2) For the purposes of sub-paragraph (1) “relevant transfer” means a transfer of—
- (a) the whole of the business of a person carrying on business as a promoter;
 - (b) any part of such a business that relates to the promotion of relevant arrangements or relevant proposals;
 - (c) property, rights or liabilities of such a business that are connected with the promotion of relevant arrangements or relevant proposals.
- (3) In sub-paragraph (2) “transfer” means any transfer in substance (whether or not the transfer is formal or for consideration, and whether or not the transfer is direct).
- (4) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of “control” and “significant influence”) apply to this paragraph as they apply to Part 2 of that Schedule.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)