Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 30. (See end of Document for details)*

SCHEDULES

SCHEDULE 30

Section 121

AMENDMENTS OF PART 5 OF FA 2014

PART 1

STOP NOTICES AND INFORMATION & INSPECTION POWERS

1 After section 236 (of FA 2014) insert—

"Stop notices

236A Power to give stop notices

(1) An authorised officer may give a person a notice (a "stop notice") if the authorised officer suspects that the recipient promotes, or has promoted, arrangements of a description specified in the notice or proposals for such arrangements.

(2) A description of arrangements may be specified in a stop notice only if the authorised officer considers that—
  (a) condition A and any of conditions B and C are met, or
  (b) conditions B and D are met.

(3) Condition A is that arrangements of that description—
  (a) would, if the arrangements had been implemented before 5 April 2019, have been likely to—
    (i) cause a person to be treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 by virtue of paragraph 1(1) of Schedule 11 to F(No.2)A 2017 (loan charge: employment income), or
    (ii) cause a relevant benefit to be treated as arising for the purposes of section 23A to 23H of ITTOIA 2005 by virtue of paragraph 1 of Schedule 12 to F(No.2)A 2017 (loan charge: trading income),
  (b) would be the same, or similar, in form or effect to arrangements or proposed arrangements to which a reference number has been allocated under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017,
  (c) would be the same, or similar, in form or effect to arrangements in relation to which a person has been given a follower notice under section 204 (circumstances in which a follower notice may be given), or

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(d) would be the same, or similar, in form or effect to arrangements of a description specified in regulations made by the Commissioners under this section.

(4) Condition B is that—

(a) arrangements of that description, or proposals for such arrangements, have been, or are likely to be, marketed (in any manner, whether by the recipient of the stop notice or otherwise) as capable of enabling a person to obtain a particular tax advantage, and

(b) it is more likely than not that arrangements of that description are not capable of enabling that advantage to be obtained.

(5) Condition C is that condition A is met as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017 in relation to arrangements or proposed arrangements (the "reference arrangements") and—

(a) HMRC has required any person to provide information or documents under section 310A or 311C of FA 2004 or paragraph 19 or 22C of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements and that person has not complied with that requirement, or

(b) HMRC has made an application to the tribunal under section 308A(2) of FA 2004 or paragraph 16 of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements.

(6) Condition D is that—

(a) arrangements of that description or proposals for such arrangements would be relevant arrangements or relevant proposals (see section 234), and

(b) the recipient of the notice is subject to a conduct notice or a monitoring notice.

(7) For the purposes of this section, and sections 236B to 236K and 272A, a person promotes arrangements or a proposal for arrangements if the person does anything in connection with those arrangements or that proposal that would, if those arrangements or that proposal were relevant arrangements or a relevant proposal, cause the person to be carrying on a business as a promoter, or to be treated as such, for the purposes of this Part.

236B Effect of stop notices

(1) A person subject to a stop notice must not promote—

(a) any arrangements that meet the description specified in the notice or that have a similar form or effect to arrangements of that description, or

(b) any proposal for such arrangements.

(2) A person is subject to a stop notice for the purposes of this Part if—

(a) the person is the recipient of the notice;

(b) the person is a body corporate or partnership that the recipient of the notice controls or has significant influence over;

(c) the person controls or has significant influence over a body corporate or partnership that is the recipient of the notice;

(d) the recipient of the notice makes a relevant transfer to the person.

(3) If the recipient of a stop notice controls or has significant influence over a person that is a body corporate or partnership, the recipient must—

(a) within 5 days of the giving of the notice, give a copy of the notice to that person, and

(b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to that person.

(4) If the recipient of a stop notice is a body corporate or partnership, it must—

(a) within 5 days of the giving of the notice, give a copy of the notice to each person who controls or has significant influence over it, and

(b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to each such person.

(5) If the recipient of a stop notice makes a relevant transfer to a person, the recipient must—

(a) before making the transfer, give a copy of the notice to that person, and

(b) within 15 days of making the transfer, provide HMRC with the information mentioned in subsection (6) in relation to that person.

(6) The information referred to in subsections (3)(b), (4)(b) and (5)(b) in relation to a person is—

(a) the person's name;

(b) any name under which the person carries on a business and any previous name or pseudonym known by the recipient of the stop notice;

(c) the person's business address or registered office.

(7) An authorised officer may give a copy of a stop notice to any person the officer considers the recipient of the notice is obliged to give a copy to as a result of subsection (3)(a), (4)(a) or (5)(b) (but this does not affect the obligation of the recipient to do so).

(8) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of "control" and "significant influence") apply to this section as they apply to Part 2 of that Schedule.

(9) In this section "relevant transfer" has the meaning it has in paragraph 5 of Schedule 33A (promotion structures).

236C Quarterly returns

(1) A person subject to a stop notice must provide a return to HMRC containing the information described in subsection (4) for each relevant period.

(2) The first relevant period is the 3 month period commencing on the day the stop notice was given to its recipient.

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(3) Each successive 3 month period that commences within the period of 3 years commencing on that day is a relevant period.

(4) The information that must be contained in a return under subsection (1) is—

(a) the number (which may be nil) of relevant clients of the person subject to the stop notice in the relevant period to which the return relates,

(b) if the return is the return for the first relevant period, the number (which may be nil) of relevant clients of the person in the period ending with the commencement of the first relevant period,

(c) in respect of each relevant client—

(i) the client's name and address,

(ii) the unique taxpayer reference number (if any) allocated to the client by HMRC, and

(iii) the client's national insurance number (if any),

(d) any name by which any such arrangements or proposal is known or is marketed.

(5) For the purposes of this section, a person ("C") is a "relevant client" of a person subject to a stop notice ("P") in a period if at any time during that period—

(a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice;

(b) P has made the proposal available for implementation by C;

(c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.

(6) If the person does not have the information referred to in subsection (4)(c)(ii) or (iii) in respect of a relevant client, the return must instead include a statement of that fact.

(7) A return for a relevant period must be provided to HMRC before the end of the period of 15 days commencing on the last day of the relevant period.

(8) An authorised officer may by notice to a person subject to the obligation to make a return under sub-paragraph (1) provide for that obligation to cease to have effect in relation to that person from such time as may be specified in the notice.

236D Withdrawal of stop notices

(1) A person subject to a stop notice may make a request for the notice to cease to have effect in relation to that person if the person—

(a) does not intend to promote, and has not promoted, arrangements that fall within the description of arrangements specified in the notice or proposals for such arrangements,

(b) considers that the conditions for specifying the description of arrangements (see section 236A(2)) were not met, or

(c) considers that there are other reasons for it to cease to have effect.

(2) A request under subsection (1) must—
  (a) be made in writing to an authorised officer,
  (b) be made before the end of the period of 30 days beginning with the day on which the stop notice was given,
  (c) contain an explanation of the basis for the request, and
  (d) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.

(3) The authorised officer to whom the request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request.

(4) The authorised officer must give the person who made the request a notice setting out the officer's decision ("a decision notice") before the end of the period of 45 days beginning with the day on which the request was received.

(5) If at the end of that period the authorised officer has not given a decision notice, the stop notice ceases to have effect in relation to the person who made the request.

(6) An authorised officer may also determine that a stop notice is to cease to have effect in relation to a person who has not made a request under subsection (1) by giving the person a notice ("a withdrawal notice").

(7) A decision notice or a withdrawal notice that provides for a stop notice to cease to have effect in relation to a person must specify the date on which it ceases to have effect in relation to that person, which may be earlier or later than the date on which the decision notice or withdrawal notice is given.

236E Appeal against decision not to withdraw stop notice

(1) A person may appeal against a refusal by an authorised officer to grant a request that a stop notice cease to have effect in relation to that person.

(2) Notice of appeal must be given—
  (a) in writing to the officer who gave the decision notice under section 236D(4), and
  (b) within the period of 30 days beginning with the day on which the decision notice was given.

(3) The notice of appeal must state the grounds of appeal.

(4) The grounds of appeal that may be stated are the same as the grounds on which a person may request that a stop notice cease to have effect as mentioned in section 236D(1).

(5) On an appeal that is notified to the tribunal, the tribunal may—
  (a) confirm the refusal, or
  (b) direct that the stop notice is to cease to have effect in relation to a person from such date as the tribunal consider appropriate (which may be earlier or later than the date on which the tribunal makes that direction).

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(6) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

236F Suspension of stop notice pending appeal

(1) A person who makes an appeal under section 236E may make a suspension request.

(2) A "suspension request" is a request that a stop notice which is the subject of an appeal under that section is to cease to have effect in relation to the person making the request until the appeal has been determined, withdrawn or otherwise disposed of.

(3) A suspension request must—
  (a) be made in writing to the authorised officer to whom the notice of appeal was given,
  (b) contain an explanation of the basis for the request, and
  (c) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.

(4) The authorised officer to whom the suspension request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request until the appeal has been determined, withdrawn or otherwise disposed of.

(5) When deciding whether or not to grant a suspension request, the officer must have regard to the need to protect—
  (a) the public revenue, and
  (b) persons to whom arrangements or proposals for arrangements of the description specified in the stop notice might be marketed.

(6) The authorised officer must give the person who made the suspension request a notice setting out the officer's decision ("a suspension decision notice") before the end of the period of 30 days beginning with the day on which the request was received.

(7) If at the end of that period the authorised officer has not given a suspension decision notice, the stop notice ceases to have effect in relation to the person who made the request until either—
  (a) the officer gives a decision notice that provides that the suspension request is not to be granted, or
  (b) the appeal has been determined, withdrawn or otherwise disposed of.

236G Automatic withdrawal of certain stop notices

(1) This section applies to a stop notice if—
  (a) condition A in section 236A was met in relation to the giving of that notice as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017, and
  (b) that reference number has been withdrawn.

(2) Where this section applies to a stop notice, it ceases to have effect in relation to every person who is subject to it from the time when the reference number in question was withdrawn.

(3) HMRC must give a notice to—

(a) each person who has been given a stop notice to which this section applies, and

(b) every other person that HMRC is aware was subject to that notice.

(4) A notice given under subsection (3) must state the reason for the withdrawal of the reference number in question and may contain such further explanation as HMRC consider appropriate (for example, it may contain HMRC's view of the arrangements or proposed arrangements to which the reference number relates).

236H Publication

(1) An authorised officer may publish—

(a) the fact that a person is subject to a stop notice;

(b) details of any arrangements or proposal for arrangements promoted by that person that the officer considers meet the description specified in the notice.

(2) Publication under subsection (1) may also include the following information about the person—

(a) the person's name;

(b) the person's business address or registered office;

(c) any other information that the authorised officer considers it appropriate to publish in order to make clear the person's identity.

(3) The reference in subsection (2)(a) to the person's name includes any name under which the person carries on a business and any previous name or pseudonym.

(4) Publication of information about a person subject to a stop notice may not take place before the end of the appeal period, but an authorised officer may, at any time after the notice is given, publish the description of arrangements or proposal for arrangements specified in the notice and the fact that arrangements of that description are subject to a stop notice.

(5) The "appeal period" means—

(a) the period during which a request under section 236D(1) (withdrawal of stop notices) could be made,

(b) where such a request was made, the period during which an appeal to the tribunal against a decision notice under section 236D(4) could be brought under section 236E, or

(c) where an appeal mentioned in paragraph (b) has been brought, the period during which the proceedings on that appeal to the tribunal have not been determined, withdrawn or otherwise disposed of.

(6) For the purposes of subsection (5)(c), reference to proceedings on an appeal to the tribunal do not include any proceedings on appeal from the tribunal.

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236I Publication where stop notice automatically withdrawn

(1) Where an authorised officer has published anything under section 236H in relation to a stop notice that has ceased to have effect as a result of section 236G, an authorised officer must publish—
  (a) the fact it has ceased to have effect;
  (b) the reason for the withdrawal of the reference number in question (see section 236G(1));
  (c) such further explanation as HMRC consider appropriate.

(2) Where an authorised officer is required to publish information as a result of subsection (1), the officer may also publish information about the persons who were subject to such a stop notice (including the information mentioned in section 236H(1) and (2)).

236J Disclosure to clients and intermediaries

(1) A person ("P") subject to a stop notice who (at any time) has promoted arrangements falling within the description specified in that notice, or has promoted a proposal for such arrangements, must give a notice to—
  (a) each of P's clients in relation to those arrangements or that proposal, and
  (b) each person who P could reasonably be expected to know is an intermediary in relation to any such proposal.

(2) The notice must—
  (a) set out the fact that a person is subject to a stop notice,
  (b) set out the fact that the arrangements or proposed arrangements the recipient of the notice is a client or intermediary in relation to meets the description of arrangements specified in the notice, and
  (c) be accompanied with a copy of the stop notice.

(3) A person ("C") is a client of P if—
  (a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice,
  (b) P has made the proposal available for implementation by C, or
  (c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.

(4) A notice under this section must be given—
  (a) to each person who was a client of P on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;
  (b) to each person that P could reasonably be expected to know was an intermediary in relation to the proposal in question on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;

(c) to each person that P subsequently becomes aware is an intermediary in relation to the proposal in question, within 5 days of P becoming so aware.

236K Notification of interested persons by HMRC

(1) This section applies if an authorised officer suspects that a person subject to a stop notice has failed to comply with section 236B(1).

(2) Where this section applies, the officer may provide a copy of the stop notice to any person the officer considers might be affected by that failure or the giving of the stop notice (for example, any person who is a client of the person who failed to comply with section 236B(1) or who otherwise makes use of arrangements that must not be promoted as a result of the stop notice).

(3) Where the officer provides a copy of a stop notice to a person under subsection (2) the officer may also provide any of the following information to that person—

(a) the name of the person who failed to comply with section 236B(1);

(b) the business address or registered office of that person;

(c) any other information that the authorised officer considers it appropriate to provide in order to make clear the identity of that person;

(d) details of any arrangements or proposal for arrangements promoted by that person that meet the description specified in it;

(e) an explanation of the effect of the stop notice;

(f) an explanation of why the stop notice was given."

2 (1) Section 245 (withdrawal of monitoring notice) is amended as follows.

(2) In subsection (5)(c), after "Part" insert " (including any obligations connected with any stop notice the person is subject to) ".

(3) After subsection (8) insert—

"(8A) For the purposes of determining whether a person should be given a follow-on conduct notice, the meeting of the condition in paragraph 12 of Schedule 34 (stop notices) by the person at a time when they are subject to a monitoring notice is to be regarded as significant by the authorised officer making the determination (see section 237(5))."

3 Omit section 262 (information required for monitoring compliance with conduct notice).

4 After section 272 insert—

"**272A Application of Schedule 36 FA 2008 powers**

(1) Schedule 36 to FA 2008 (information and inspection powers) applies for a relevant purpose in relation to a relevant person as it applies for the purpose of checking the tax position of a person as if—

(a) any provisions which can have no application for that purpose were omitted (for example, paragraphs 10A, 11, 12A and 12B);

(b) references to "the taxpayer" were to "the relevant person";

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(c) references to prejudice to the assessment or collection of tax included prejudice to the fulfilment of a relevant purpose;

(d) references to "business documents" included any documents (or copies of documents) in connection with any relevant arrangements or relevant proposal;

(e) references to a pending appeal relating to tax were to a pending appeal by the relevant person under this Part;

(f) in paragraph 13, after "paragraph 39" there were inserted " of this Schedule and paragraph 2(3A) of Schedule 35 to FA 2014 ";

(g) paragraphs 21 to 21B were omitted;

(h) paragraph 25 were omitted;

(i) in paragraph 29(1) for "a taxpayer", in the first place it occurs, there were substituted " a relevant person ";

(j) Part 7 (penalties) were omitted (but see Schedule 35 of this Act).

(2) A person is "relevant" if—

(a) the officer suspects that the person carries on, or has in the past carried on, a business as a promoter in relation to a relevant proposal or relevant arrangements and—

(i) the officer suspects that the person has met a threshold condition,

(ii) the officer suspects the person could be given a defeat notice, or

(iii) the officer suspects the person promotes, or has promoted, arrangements, or proposals for such arrangements, of a description that the officer suspects could be specified in a stop notice,

(b) the officer suspects that—

(i) the person made a relevant transfer, or

(ii) the person is a person to whom a relevant transfer was made, or

(c) the person is, or was, subject to a stop notice, conduct notice or monitoring notice.

(3) The following are "relevant purposes" in relation to a relevant person—

(a) determining whether the relevant person carries on or has in the past carried on a business as a promoter in relation to a relevant proposal or relevant arrangements;

(b) determining whether the relevant person has met a threshold condition;

(c) determining whether the relevant person could be given a defeat notice;

(d) determining whether the person has provided false or misleading information or documents in relation to a stop notice, conduct notice or monitoring notice;

(e) determining whether arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person are of a description that could be specified in a stop notice;

(f) enabling HMRC to understand the operation of arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person;

(g) identifying any other person who has a connection with the relevant person that results (whether solely because of that connection or otherwise) in the relevant person being a member of a promotion structure;

(h) determining whether the relevant person made a relevant transfer, and if so to whom;

(i) determining whether a relevant transfer was made to the relevant person, and if so by whom;

(j) monitoring compliance with any stop notice, conduct notice or monitoring notice the relevant person is subject to.

(4) In this section—

(a) reference to compliance with a stop notice, conduct notice or monitoring notice includes compliance with any provisions of this Part that a person subject to such a notice must comply with;

(b) reference to a person "promoting" is to be construed in accordance with section 236A(7);

(c) "relevant transfer" has the meaning it has in paragraph 5 of Schedule 33A (promotion structures)."

5 (1) Section 273 (confidentiality) is amended as follows.

(2) In subsection (1) before paragraph (a) insert—

"(za) a person subject to a stop notice,

(zb) arrangements or proposals for arrangements of a description specified in a stop notice in relation to which a person subject to a stop notice is a promoter,".

(3) In subsection (2)—

(a) in the words before paragraph (a)—

(i) after "client"" insert " , in relation to a person mentioned in paragraph (za), (zb), (a) or (b) of subsection (1), ";

(ii) for "monitored promoter mentioned in subsection (1)(a) or (b)" substitute " person so mentioned ";

(b) in paragraphs (a) and (b), for "a relevant", in both places it occurs, substitute " an applicable ";

(c) in paragraph (c), for "relevant" substitute " applicable ".

(4) In subsection (3)—

(a) for "a relevant" substitute " an applicable ";

(b) for "monitored promoter mentioned in subsection (1)(a) or (b)" substitute " person mentioned in paragraphs (za), (zb), (a) or (b) of subsection (1) ".

(5) In subsection (4), for "relevant", in each place it occurs, substitute " applicable ".

(6) After that subsection insert—

"(5) Nothing in this section authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account this section).

(6) For the purposes of this section, a person mentioned in subsection (1)(za) or (zb) is a promotor of arrangements or a proposal for arrangements if the person would be a promoter of those arrangements or proposal if those arrangements or that proposal were relevant arrangements or a relevant proposal (see section 235(2) to (6) and any regulations made under section 235(6)).

(7) In this section—

"applicable arrangements" means—

(a) in relation to a disclosure falling within subsection (1)(za) or (zb), arrangements falling within the description specified in the stop notice to which the disclosure relates, or

(b) in relation to a disclosure falling within subsection (1)(a) or (b), relevant arrangements;

"applicable proposal" means—

(a) in relation to a disclosure falling within subsection (1)(za) or (zb), a proposal for arrangements falling within the description specified in the stop notice to which the disclosure relates, or

(b) in relation to a disclosure falling within subsection (1)(a) or (b), a relevant proposal;

"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act)."

6 In section 283 (interpretation of Part 5), in subsection (1), at the appropriate place insert—

""stop notice" means a notice given under section 236A(1);

"subject to a stop notice", in relation to a person, is to be construed in accordance with section 236B(2);".

7 In Schedule 34 (threshold conditions)—

(a) for the italic heading before paragraph 12 substitute " Stop notices ";

(b) for that paragraph substitute—

"12 A person meets this condition if the person is subject to a stop notice and fails to comply with—

(a) section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice),

(b) section 236C(1) (duty to make return to HMRC), or

(c) any obligations of the person under Schedule 36 to FA 2008 as it has effect as a result of section 272A (information and inspection powers)."

8 (1) Schedule 35 (penalties) is amended as follows.

(2) In paragraph 1—

(a) before paragraph (a) insert—

"(za) section 236C(1) (duty to make return to HMRC);";

(b) omit paragraph (g);

(c) after paragraph (h) insert—

"(i) paragraph 1, 2, 5 or 5A of Schedule 36 of FA 2008 (information and inspection powers) as it has effect as a result of section 272A."

(3) In paragraph 2—

(a) in sub-paragraph (1)—

(i) the words from "fails" to the end become paragraph (a);

(ii) in that paragraph, for "provision" substitute " duty ";

(iii) after that paragraph insert ", or—

(b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under paragraph 10 of Schedule 36 to FA 2008, as it has effect as a result of section 272A, that has been approved by the tribunal is liable to a penalty not exceeding the relevant amount (see sub-paragraph (3A)).";

(b) in that sub-paragraph, in the Table, before the first entry insert—

"Section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice)	the relevant amount (see subparagraphs (2A) and (2B))
Section 236B(3)(a), (4)(a) or (5)(a) (requirement to notify persons who are subject to a stop notice)	£10,000
Section 236B(3)(b), (4)(b) or (5)(b) (requirement to notify HMRC of persons who are subject to a stop notice)	£25,000
Section 236C(1) (duty to make return to HMRC)	£5,000
Section 236J(1) (requirement to notify clients and intermediaries of stop notice)	£5,000";

(c) in that Table, at the end insert—

"Duty to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 as it has effect as a result of section 272A	the relevant amount (see sub-paragraph (3A))
Duty to comply with a notice given under paragraph 2, 5 or 5A of Schedule 36 to FA 2008 as it has effect as a result of section 272A	the relevant amount (see sub-paragraph (3B))";

(d) in that Table—

(i) in the heading of the first column, after "Provision" insert " or duty ";

(ii) omit the entry relating to section 262 (duty to provide information required to monitor compliance with conduct notice);

(e) after sub-paragraph (1) insert—

"(1A) In relation to a failure to comply with section 236C(1) the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed—

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(a) in respect of each failure to provide the required information or statement (see section 236C(6)) about a relevant client (within the meaning given by that section), and

(b) for each day on which a complete return is not provided after the end of the period within which it must be provided (see section 236C(7)).";

(f) in sub-paragraph (2), after "section" insert " 236B(3), (4) or (5), 236J(1), ";

(g) after sub-paragraph (2) insert—

"(2A) In relation to a failure to comply with section 236B(1), the "relevant amount" is the sum of—

(a) £100,000 in respect of one or more failures relating to a particular stop notice, and

(b) £5,000 for each person to whom arrangements of a description specified in that stop notice, or a proposal for such arrangements, were promoted (within the meaning it has in that section).

(2B) Where a person fails to comply with section 236B(1) at a time when the person, or another person who the person controls or has significant influence over, is subject to a monitoring notice, sub-paragraph (2A) applies as if—

(a) in paragraph (a), for "£100,000" there were substituted " £250,000 ", and

(b) in paragraph (b), for "£5,000" there were substituted " £10,000 ".

(2C) If the maximum penalty that would apply as a result of sub-paragraph (2B) in a particular case appears inappropriately low after taking account of the considerations in sub-paragraph (4), sub-paragraph (2B)(a) applies as if for "£250,000" there were substituted " £1,000,000 ".";

(h) after sub-paragraph (3) insert—

"(3A) Where a person fails to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 (as it has effect as a result of section 272A) or deliberately obstructs an officer of Revenue and Customs in the course of an inspection under paragraph 10 of that Schedule (as it has effect as a result of that section) that has been approved by the tribunal, the "relevant amount" is—

(a) in the case of a failure by a person who was subject to a monitoring notice at the time of the failure, or who had control of or had significant influence over such a person, £1,000,000, and

(b) in any other case, £5,000.

(3B) In relation to a failure to comply with a notice given under paragraph 2, 5 or 5A of that Schedule as it has effect as a result of section 272A, the "relevant amount" is the amount for the time being specified in paragraph 39(2) of that Schedule.";

(i) in sub-paragraph (4)—

(i) in paragraph (a)—

(a) for "to comply with section 255 or 257" substitute " relating to any arrangements or proposal promoted by a person ";

(b) for the words from "monitored proposal, arrangements" to the end substitute " those arrangements or that proposal ";

(ii) in paragraph (b)—

(a) for the words from "the case" to "(5)" substitute " such a case ";

(b) omit "by the person";

(c) omit "monitored" in both places;

(d) after "proposal" insert " (including, where the person liable to the penalty is the promoter of those arrangements or that proposal, any advantage that was gained or sought to be gained by the persons to whom the arrangements or proposal were promoted) ";

(j) after sub-paragraph (4) insert—

"(5) The references in sub-paragraph (4) to arrangements or a proposal being "promoted" are to be construed in accordance with section 236A(7).

(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."

(4) In paragraph 3, in sub-paragraph (1), after "information duty" insert " , other than a duty arising under section 236C(1), ".

(5) In paragraph 4—

(a) in sub-paragraph (1)(a), after "information duty" insert " or a requirement to provide evidence under section 236D(2)(d) or 236F(3)(c) ";

(b) in sub-paragraph (8)—

(i) in paragraph (a), after "258" insert ", or under Schedule 36 to FA 2008 as it has effect as a result of section 272A in a case where the person required to provide the information or produce the document was at the time subject to a monitoring notice;

(ii) in paragraph (c)—

(a) after "section" insert " 236C(1), 236D(2)(d), 236F(3)(c), ";

(b) omit ", 262";

(c) after "263" insert " or under Schedule 36 to FA 2008 as it has effect as a result of section 272A in a case not falling within paragraph (a) ";.

(6) In paragraph 6(1) in sub-paragraph (1) for ", 257 or 262" substitute " or 257 or under Schedule 36 of FA 2008 as it has effect as a result of section 272A ".

(7) In paragraph 7—

(a) in sub-paragraph (1), for "255, 257 or 262" substitute " section 255 or 257, or under Schedule 36 of FA 2008 as it has effect as a result of section 272A, ";

(b) in sub-paragraph (2), in paragraph (b), for "255, 257 or 262" substitute " section 255 or 257, or under Schedule 36 of FA 2008 as it has effect as a result of section 272A, ".

(8) In paragraph 10, in paragraph (b)—

(a) the words from "a penalty under paragraph 3" to the end become sub-paragraph (i);

(b) after that sub-paragraph insert—

"(ii) a penalty in respect of a failure to comply with section 236B(1) unless an officer of Revenue and Customs authorised for the purposes of section 100 of TMA 1970 considers that paragraph 2(2C) of this Schedule applies in relation to that failure;

(iii) a penalty in respect of a failure to comply with section 236B(3), (4) or (3), 236C(1) or 236J(1);

(iv) a penalty in respect of a failure to comply with a notice given under paragraph 1 of Schedule 36 to FA 2008 as it has effect as a result of section 272A unless paragraph 2(3A)(a) of this Schedule applies in relation to that failure;

(v) a penalty in respect of a failure to comply with a notice given under paragraph 2, 5 or 5A of Schedule 36 to FA 2008 as it has effect as a result of section 272A."

PART 2

PROMOTION STRUCTURES

9 In section 235 (carrying on a business "as a promoter"), after subsection (1) insert—

"(1A) For the purposes of this Part, a person is treated as carrying on a business as a promoter if the person is a member of a promotion structure (whether or not the person carries on a business).

Schedule 33A describes the cases in which a person is a member of a promotion structure."

10 After Schedule 33 insert—

"SCHEDULE 33A — Section 235

PROMOTION STRUCTURES

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—

(a) the case described in paragraph 2 (multiple entity promoter),

(b) the case described in paragraph 3 (acting for a non-resident promoter),

(c) the case described in paragraph 4 (control of another promoter), or

(d) the case described in paragraph 5 (transfer of promotion business).

Multiple entity promoter

2 (1) A falls within this case if—

(a) 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

(b) 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—

(a) D is able to secure that E acts in accordance with D's wishes (or vice versa),

(b) E typically acts in accordance with D's wishes,

(c) it is reasonable to expect that E will act in accordance with D's wishes,

(d) a third person is able to secure that D and E act in accordance with the third person's wishes,

(e) D and E typically act in accordance with a third person's wishes,

(f) it is reasonable to expect that D and E will act in accordance with a third person's wishes, or

(g) 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—

(a) D has a 50% investment in E (or vice versa), or

(b) a third person has a 50% investment in each of D and E.

(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—

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(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,

(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—

"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—

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(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."

11 In section 237 (duty to give conduct notice), after subsection (8) insert—

"(8A) Where the authorised officer is required to make a determination under subsection (5), the officer must determine that the meeting of the condition (or if more than one is met, all of them) should be regarded as significant if P falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter)."

12 In section 237A (duty to give conduct notice: defeat of promoted arrangement) after subsection (3B) (as inserted by paragraph 22(2) of this Schedule) insert—

"(3C) If a person meets a condition in subsection (11), (12) or (13) and the person falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter), the authorised officer must determine (whether under subsection (1) or (3)(a) or (b)) that the meeting of the condition should be regarded as significant."

13 In section 250 (allocation of promoter reference number), in subsection (2)—
(a) omit the "and" at the end of paragraph (a);
(b) after that paragraph insert—
"(aa) any person who HMRC know falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

14 (1) Section 251 (duty of monitored promoter to notify clients and intermediaries of number) is amended as follows.

(2) In the heading for "and intermediaries" substitute " etc ".

(3) In subsection (2)—

(a) omit the "and" at the end of paragraph (c);

(b) after that paragraph insert—

"(ca) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

15 (1) Section 252 (duty of those notified to notify others of promoter's number) is amended as follows.

(2) After subsection (4) insert—

"(4A) Where the notified client is a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter concerned, the notified client must also, within 30 days, provide the promoter reference number to—

(a) any person to whom the notified client has, since the monitoring notice in relation to the monitored promoter concerned took effect, communicated, for the purposes of any business (whether carried on by the notified client or not), information about a relevant proposal of the monitored promoter, and

(b) any person who the notified client might reasonably be expected to know has, since that monitoring notice took effect, entered into, or is likely to enter into, transactions forming part of relevant arrangements in relation to which that monitored promoter is a promoter."

(3) In subsection (5), for "Subsection (2) or (4) does not" substitute " None of subsections (2), (4) or (4A) ".

16 In section 258 (duty of person dealing with non-resident monitored promoter), in subsection (3)—

(a) omit the "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and".

17 (1) Section 260 (intermediaries: duty to provide information about clients) is amended as follows.

(2) In the heading, after "Intermediaries" insert " etc ".

(3) In subsection (1)—

(a) the words from "a person" to the end become paragraph (a);

(b) at the end of that paragraph insert ";

(b) a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter."

(4) In subsection (3)(a) for "the intermediary" substitute " the person to whom the notice is given ".

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(5) In subsection (5)—

(a) in the words before paragraph (a), for "the intermediary" substitute " the person to whom the notice under subsection (1) is given ("R") ";

(b) in paragraph (a), for "the intermediary" substitute " R ".

(6) In subsection (6) for "the intermediary", in each place it occurs, substitute " R ".

18 In section 283 (interpretation)—

(a) in subsection (1), at the appropriate place insert—

""promotion structure" is to be construed in accordance with section 235(1A) and Schedule 33A;";

(b) after subsection (3) insert—

"(4) Any reference in this Part to a person's activities as a promoter includes—

(a) if the person falls within the case described in paragraph 2 of Schedule 33A, the activities carried out by the person and other persons by virtue of which the person falls within the case,

(b) if the person falls within the case described in paragraph 3 of that Schedule, activities carried out under the instruction or guidance of a person who carries on business as a promoter,

(c) if the person falls within the case described in paragraph 4 of that Schedule, the activities of the body corporate or partnership that the person controls, and

(d) if the person falls within the case described in paragraph 5 by virtue of sub-paragraph (1)(b) of that paragraph, the activities of the body corporate or partnership that the person controls."

19 In Schedule 34 (threshold conditions) in paragraph 13B, in sub-paragraph (5), after "individual" insert " who does not fall within the case described in paragraph 4 or 5 of Schedule 33A ".

PART 3

CONDUCT AND MONITORING NOTICES: TRANSFEREES

Conduct notices: transferees

20 (1) After section 239 insert—

"**239A Conduct notices: transferees**

(1) This section applies if an authorised officer becomes aware at any time that a person to whom a conduct notice has been given (" P ") has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person ("D").

(2) The authorised officer may give D a conduct notice.

(3) If the proposed terms of the conduct notice to be given to D are the same as the terms of the conduct notice given to P, section 238(2) (content of conduct notice: opportunity to comment) does not apply in relation to the proposed terms.

(4) If the proposed terms of the conduct notice to be given to D differ from the terms of the conduct notice given to P, section 238(2) applies in relation to the proposed terms as if the reference in that provision to "the proposed terms of the notice" were a reference to the differences between the proposed terms of the conduct notice to be given to D and the terms of the conduct notice given to P.

(5) Where a person is given a conduct notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.

(6) If (in light of those representations) the authorised officer considers that this section did not apply at the time the conduct notice was given, the officer must withdraw the notice."

(2) The amendment made by this paragraph has effect in relation to relevant transfers made on or after the day on which this Act is passed.

Monitoring notices: transferees

21 (1) After section 244 insert—

"**244A Monitoring notices: transferees**

(1) This section applies if an authorised officer becomes aware at any time that a person to whom a monitoring notice has been given (" P ") has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person ("D").

(2) The authorised officer may give D a monitoring notice.

(3) Where a person is given a monitoring notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.

(4) If (in light of those representations) the authorised officer considers that this section did not apply at the time the monitoring notice was given, the officer must withdraw the notice.

(5) Subsections (2) to (4) of section 244 (monitoring notice: content and issuing) apply in relation to a monitoring notice given under subsection (2) of this section as they apply to a monitoring notice given under subsection (1) of that section, but as if the reference in subsection (3)(a) of that section to "the person" were a reference to P."

(2) In section 248 (publication by HMRC), in subsection (2)(c), for "mentioned in section 242(1)(a)" substitute " as a promoter which the monitored promoter is carrying on ".

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(3) The amendments made by this paragraph have effect in relation to relevant transfers made on or after the day on which this Act is passed.

PART 4

MISCELLANEOUS AMENDMENTS

Conduct notices: significance of conditions

22 (1) In section 237 (duty to give conduct notices)—

(a) in subsection (5), in paragraph (b)—

(i) omit sub-paragraph (i) (and the "and" after it);

(ii) in sub-paragraph (ii), for "(or conditions)" substitute " (or, if more than one condition is met, the meeting of all of those conditions, taken together) ";

(b) after that subsection insert—

"(5A) In determining under subsection (5)(b) whether or not P's meeting of the condition (or conditions) should be regarded as significant, the authorised officer must determine whether the meeting of that condition (or those conditions taken together) by the person mentioned in subsection (1A)(a) should be regarded as significant in view of the purposes of this Part.

(5B) If the officer determines that the meeting of the condition (or those conditions) by that person should be regarded as significant, the officer must determine that P's meeting of that condition (or those conditions) should be regarded as significant.";

(c) in subsection (7A)—

(i) in the words before paragraph (a) omit "both";

(ii) omit paragraph (a) (and the "and" after it).

(2) In section 237A (duty to give conduct notices: defeat of promoted arrangements)—

(a) in subsection (3) omit paragraph (a) (and the "and" after it);

(b) after that subsection insert—

"(3A) In determining under subsection (3) whether or not P's meeting of the condition should be regarded as significant, the authorised officer must determine whether the meeting of that condition by the person mentioned in subsection (2)(a) should be regarded as significant in view of the purposes of this Part.

(3B) If the officer determines that the meeting of the condition by that person should be regarded as significant, the officer must determine that P's meeting of that condition should be regarded as significant.";

(c) in subsection (9) omit paragraph (a) (and the "and" after it).

Conduct notices: regular provision of information

23 In section 238 (content of conduct notices), in subsection (3), at the end insert—

"(h) to ensure that the recipient provides such information or documents to HMRC as are required for the purpose of monitoring whether and to what extent the recipient is complying with any of the conditions in the notice."

Conduct notices: withdrawal

24 (1) Section 240 (amendment or withdrawal of conduct notice) is amended as follows.

(2) In the heading, for "or withdrawal" substitute " , withdrawal or reissue ".

(3) In subsection (3), omit paragraph (b) (and the "and" before it).

(4) After subsection (3) insert—

"(4) An authorised officer may (instead of amending the notice) withdraw the notice and give a new conduct notice."

Conduct notices: duration

25 In section 241 (duration of conduct notice)—

(a) in subsection (2)—

(i) in paragraph (a), for "the period of two years" substitute " the relevant period ";

(ii) omit the "or" at the end of paragraph (a);

(iii) omit paragraph (b);

(b) after subsection (2) insert—

"(2A) But where a new conduct notice was given under section 240(4) that has a commencement date that is later than 12 months before the end of the relevant period in relation to the original notice, that new notice ceases to have effect at the end of the relevant period in relation to the original notice.";

(c) after subsection (4) insert—

"(4A) For the purposes of subsection (2)(a), the relevant period in relation to a conduct notice is calculated in accordance with this table—

If the authorised officer is aware that the person to whom the notice is given meets	***the relevant period is such period as may be notified in accordance with subsection (4B) or (4C) up to***
1 ordinary condition	2 years
2 ordinary conditions	4 years
3 or more ordinary conditions	5 years
1 significant condition	3 years
1 significant condition and 1 or more other significant or ordinary conditions	5 years

Subsection (4E) makes provision for the relevant period to be extended in certain circumstances.

(4B) When an authorised officer gives a person a conduct notice the officer must notify the person of the relevant period calculated by reference to the conditions which the officer is aware the person has met at that time.

(4C) If an authorised officer becomes aware that a person in relation to whom a conduct notice has effect has met one or more conditions which were not taken into account when the relevant period was calculated at the time the notice was given, the officer may give the person a notice—

(a) stating that the relevant period has been recalculated to take account of the additional conditions, and

(b) notifying the person of —

(i) the new relevant period as recalculated in accordance with the table in subsection (4A), and

(ii) the new date at the end of which the conduct notice will cease to have effect.

(4D) For the purposes of the table in subsection (4A)—

(a) a condition is significant if it is—

(i) a threshold condition listed in section 237(9), or

(ii) a condition in section 237A(11), (12) or (13) in respect of which an authorised officer makes a determination (whether in accordance with section 237A(1) or (2) or for the purposes of this paragraph) that meeting the condition should be regarded as significant in view of the purposes of this Part, and

(b) a condition is ordinary if it is a threshold condition not listed in section 237(9).

(4E) In calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on all or part of which the effect of the conduct notice in question has been suspended by an authorised officer.

(4F) Where an authorised officer suspends the effect of a conduct notice, the officer must, as soon as practicable, notify the person to whom the notice was given of the suspension.

(4G) Where an authorised officer determines that the effect of a conduct notice should be resumed, the officer must, as soon as practicable, notify the person to whom the notice was given—

(a) that its effect has been resumed,

(b) of the number of days that are not to be taken into account in calculating the relevant period in accordance with subsection (4E), and

(c) of the new date at the end of which the relevant period is expected to end.

(4H) Where a conduct notice has been given to a person and the person is subsequently given a notice under paragraph 1 of Schedule 36 of

FA 2008 as it has effect as a result of section 272A (power to obtain information and documents), in calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on which the person has not complied with that notice.

(4I) For the purposes of subsection (4H), a person has not complied with a notice given under that paragraph on each day—

(a) beginning with the day after the last day on which the person could have complied with the notice, and

(b) ending with the day before the day (or, if more than one, the last day) on which the person provides the information or produces the documents required by the notice.

(4J) As soon as reasonably practicable after the day mentioned in subsection (4I)(b), an authorised officer must give the person to whom the conduct notice was given notice of—

(a) the number of days that are not to be taken into account in calculating the relevant period, and

(b) of the new date at the end of which the relevant period is expected to end."

Defeat notices

26 In section 241A (defeat notices), in subsection (4), for "come to the attention of HMRC" substitute " first come to the attention of an authorised officer ".

Monitoring notices: applications to tribunal

27 (1) In section 242 (monitoring notices: duty to apply to tribunal), in subsection (1)—

(a) in paragraph (b)—

(i) the words from "has failed" to the end become sub-paragraph (i);

(ii) at the end of that sub-paragraph insert ", or

(ii) has provided false or misleading information or documents in relation to the notice,";

(b) in the words after paragraph (b), after "the authorised officer must" insert " , within the period of 12 months beginning with the day on which the authorised officer makes the determination, ".

(2) After subsection (1) insert—

"(1A) Where subsection (1B) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person ("P") a monitoring notice.

(1B) This subsection applies where—

(a) within the period of 6 years after a conduct notice ceases to have effect in relation to P, the officer mentioned in subsection (1A) determines that P—

(i) failed to comply with one or more conditions in the notice, or

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(ii) provided false or misleading information or documents in relation to the notice, and

(b) the officer could not reasonably have been expected to make the determination when the conduct notice had effect.

(1C) An application under subsection (1A) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1B)(a).

(1D) Where subsection (1E) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person ("D") a monitoring notice.

(1E) This subsection applies where—

(a) at any time before the end of the period of 6 years after a conduct notice ceases to have effect in relation to a person ("P"), an authorised officer determines (whether before or after the notice ceases to have effect) that P—

(i) failed to comply with one or more conditions in the notice, or

(ii) provided false or misleading information or documents in relation to the notice,

(b) before the end of that period, the authorised officer becomes aware that P has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D (whether before or after the notice ceases to have effect), and

(c) the officer could not reasonably have been expected—

(i) to apply to the tribunal for approval to give P a monitoring notice, or

(ii) to give P a monitoring notice following such an application,

before the relevant transfer took place.

(1F) For the purposes of an application under subsection (1D), any act or omission of P by reference to which the determination mentioned in subsection (1E)(a) was made is to be treated as an act or omission of D.

(1G) An application under subsection (1D) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1E)(a)."

(3) The amendments made by this paragraph have effect in relation to—

(a) conduct notices that cease to have effect on or after the day on which this Act is passed, and

(b) relevant transfers made on or after that day.

Threshold conditions

28 Schedule 34 (threshold conditions) is amended as follows.

29 (1) Paragraph 5 (non-compliance with Part 7 of FA 2004) is amended in accordance with sub-paragraphs (2) to (7).

(2) In the heading, for "Part 7 of FA 2004" substitute " avoidance disclosure requirements ".

(3) Before sub-paragraph (1) insert—

"(A1) A person meets this condition if the person fails to comply with any of the following provisions of—

(a) Part 7 of FA 2004 (disclosure of tax avoidance schemes);

(b) Schedule 17 to F(No. 2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes)."

(4) In sub-paragraph (1)—

(a) for the words before paragraph (a) substitute " The provisions of Part 7 of FA 2004 are— ";

(b) after paragraph (c) insert—

"(ca) section 310C (duty of promoter to provide updated information);

(cb) section 312(2) (duty of promoter to notify client of reference number);";

(c) after paragraph (d) insert—

"(e) section 316A (duty to provide additional information)."

(5) After sub-paragraph (1) insert—

"(1A) The provisions of Schedule 17 to F(No.2)A 2017 are—

(a) paragraph 11(1) (duty of promoter in relation to notifiable proposals);

(b) paragraph 21(3) (duty of promoter to provide updated information);

(c) paragraph 23(2) (duty of promoter to notify client of reference number);

(d) paragraph 27(3) (duty of promoter to provide details of clients);

(e) paragraph 33 (duty to provide additional information)."

(6) In sub-paragraph (2)—

(a) for "sub-paragraph (1)" substitute " sub-paragraphs (1) and (1A) ";

(b) for "that sub-paragraph" substitute " any of those sub-paragraphs ".

(7) In sub-paragraph (4), after "TMA 1970" insert " or paragraph 48 of Schedule 17 to F(No.2)A 2017 ".

30 In paragraph 7—

(a) before the existing text, insert—

"(1) A person meets this condition if one or more of sub-paragraphs (2) to (4) apply in respect of the person.";

(b) the existing text becomes sub-paragraph (2);

(c) in that sub-paragraph (2), for "A person meets this condition if" substitute " This sub-paragraph applies in respect of a person if ";

(d) after that sub-paragraph, insert—

"(3) This sub-paragraph applies in respect of a person ("P") if—

(a) another person has been given, in respect of arrangements in relation to which P is a promoter ("the promoted arrangements")—

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(i) a pooled arrangements opinion notice, under paragraph 6(2) of Schedule 43A to FA 2013, or

(ii) a bound arrangements opinion notice under paragraph 6(4) of that Schedule,

(b) the notice in question sets out a report prepared by HMRC of an opinion of the GAAR Advisory Panel in relation to the promoted arrangements that is contained in one or more opinion notices given under paragraph 11(3)(b) of Schedule 43 to FA 2013 or paragraph 6(4)(b) of Schedule 43B to FA 2013, and

(c) the opinion notice, or the opinion notices taken together, either—

(i) state the joint opinion of all the members of the sub-panel arranged under Schedule 43 or 43B, as the case may be, or

(ii) state the opinion of two or more members of the sub-panel.

(4) This sub-paragraph applies in respect of a person if—

(a) arrangements in relation to which the person is a promoter ("the promoted arrangements") are equivalent within the meaning of paragraph 24(3) of Schedule 16 to F(No. 2)A 2017 to arrangements that have been referred to the GAAR Advisory Panel under paragraph 26 of that Schedule,

(b) one or more opinion notices are given under paragraph 34(3)(b) of Schedule 16 to F(No.2)A 2017 that apply to the promoted arrangements for the purposes of Part 7 of that Schedule, and

(c) the notice, or the notices taken together, either—

(i) state the joint opinion of all the members of the sub-panel arranged under that Schedule, or

(ii) state the opinion of two or more members of that sub-panel."

31 In paragraph 10 (exercise of information powers)—

(a) in sub-paragraph (1), for the words from "an information notice" to the end substitute "a requirement imposed by a notice or order given under any of the following provisions—

(a) section 308A, 310A, 313ZB, 313A and 313B of FA 2004;

(b) paragraphs 1, 2, 5 and 5A of Schedule 36 to FA 2008;

(c) paragraphs 16, 19, 28, 29 and 30 of Schedule 17 to F(No.2)A 2017."

(b) in sub-paragraph (2), after "notice" insert " or order ".

Changes to legislation:
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