

SCHEDULE 5

Regulation 14(4)

FORM AND CONTENT OF ACCOUNTS OF BANKING COMPANIES AND GROUPS

1. Part 1 of Schedule 9 to the 1985 Act (form and content of accounts of banking companies and groups) is amended as follows.

2. Omit paragraph 8 (dividends in profit and loss account to be shown as separate items)(1).

3. After paragraph 8 insert—

“**8A.** The directors of a company must, in determining how amounts are presented within items in the profit and loss account and balance sheet, have regard to the substance of the reported transaction or arrangement, in accordance with generally accepted accounting principles or practice.”

4. In the Balance Sheet Format, under the heading “LIABILITIES”, for “Provisions for liabilities and charges” substitute “Provisions for liabilities”.

5. In paragraph 19(b) (extent to which liabilities and losses to be taken into account) omit “and losses” and “or are likely to arise”.

6. In paragraph 23 (preliminary paragraph on historical cost accounting rules) for “paragraphs 39 to 44” substitute “paragraphs 39 to 44F”.

7. After paragraph 44 insert—

“FAIR VALUE ACCOUNTING

Inclusion of financial instruments at fair value

44A.—(1) Subject to sub-paragraphs (2) to (4), financial instruments (including derivatives) may be included at fair value.

(2) Sub-paragraph (1) does not apply to financial instruments which constitute liabilities unless—

- (a) they are held as part of a trading portfolio, or
- (b) they are derivatives.

(3) Sub-paragraph (1) does not apply to—

- (a) financial instruments (other than derivatives) held to maturity;
- (b) loans and receivables originated by the company and not held for trading purposes;
- (c) interests in subsidiary undertakings, associated undertakings and joint ventures;
- (d) equity instruments issued by the company;
- (e) contracts for contingent consideration in a business combination;
- (f) other financial instruments with such special characteristics that the instruments, according to generally accepted accounting principles or practice, should be accounted for differently from other financial instruments.

(4) If the fair value of a financial instrument cannot be determined reliably in accordance with paragraph 44B, sub-paragraph (1) does not apply to that financial instrument.

(5) In this paragraph—

“associated undertaking” has the meaning given by paragraph 20 of Schedule 4A; and

(1) Paragraph 8 was amended by regulation 14(6) of, and paragraphs 1 and 2 of Schedule 4 to, S.I.1996/189.

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“joint venture” has the meaning given by paragraph 19 of that Schedule.

Determination of fair value

44B.—(1) The fair value of a financial instrument is determined in accordance with this paragraph.

(2) If a reliable market can readily be identified for the financial instrument, its fair value is determined by reference to its market value.

(3) If a reliable market cannot readily be identified for the financial instrument but can be identified for its components or for a similar instrument, its fair value is determined by reference to the market value of its components or of the similar instrument.

(4) If neither sub-paragraph (2) nor (3) applies, the fair value of the financial instrument is a value resulting from generally accepted valuation models and techniques.

(5) Any valuation models and techniques used for the purposes of sub-paragraph (4) must ensure a reasonable approximation of the market value.

Inclusion of hedged items at fair value

44C. A company may include any assets and liabilities that qualify as hedged items under a fair value hedge accounting system, or identified portions of such assets or liabilities, at the amount required under that system.

Other assets that may be included at fair value

44D.—(1) This paragraph applies to—

- (a) investment property, and
- (b) living animals and plants,

that, under international accounting standards, may be included in accounts at fair value.

(2) Such investment property and such living animals and plants may be included at fair value, provided that all such investment property or, as the case may be, all such living animals and plants are so included where their fair value can reliably be determined.

(3) In this paragraph, “fair value” means fair value determined in accordance with relevant international accounting standards.

Accounting for changes in value

44E.—(1) This paragraph applies where a financial instrument is valued in accordance with paragraph 44A or 44C or an asset is valued in accordance with paragraph 44D.

(2) Notwithstanding paragraph 19 of this Schedule, and subject to sub-paragraphs (3) and (4) below, a change in the value of the financial instrument or of the investment property or living animal or plant must be included in the profit and loss account.

(3) Where—

- (a) the financial instrument accounted for is a hedging instrument under a hedge accounting system that allows some or all of the change in value not to be shown in the profit and loss account, or
- (b) the change in value relates to an exchange difference arising on a monetary item that forms part of a company’s net investment in a foreign entity,

the amount of the change in value must be credited to or (as the case may be) debited from a separate reserve (“the fair value reserve”).

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- (4) Where the instrument accounted for—
 - (a) is an available for sale financial asset, and
 - (b) is not a derivative,

the change in value may be credited to or (as the case may be) debited from the fair value reserve.

The fair value reserve

44F.—(1) The fair value reserve must be adjusted to the extent that the amounts shown in it are no longer necessary for the purposes of paragraph 44E(3) or (4).

(2) The treatment for taxation purposes of amounts credited or debited to the fair value reserve shall be disclosed in a note to the accounts.”

8.—(1) Chapter 3 (notes to the accounts) is amended as follows.

(2) After paragraph 50 insert—

“Reserves and dividends

50A. There must be stated—

- (a) any amount set aside or proposed to be set aside to, or withdrawn or proposed to be withdrawn from, reserves,
- (b) the aggregate amount of dividends paid in the financial year (other than those for which a liability existed at the immediately preceding balance sheet date),
- (c) the aggregate amount of dividends that the company is liable to pay at the balance sheet date, and
- (d) the aggregate amount of dividends that are proposed before the date of approval of the accounts, and not otherwise disclosed under paragraph (b) or (c).”

(3) After paragraph 58 insert—

“Information about fair value of assets and liabilities

58A.—(1) This paragraph applies where financial instruments have been valued in accordance with paragraph 44A or 44C.

(2) There must be stated—

- (a) where the fair value of the instruments has been determined in accordance with paragraph 44B(4), the significant assumptions underlying the valuation models and techniques used,
- (b) for each category of financial instrument, the fair value of the instruments in that category and the changes in value—
 - (i) included in the profit and loss account, and
 - (ii) credited to or (as the case may be) debited from the fair value reserve,in respect of those instruments, and
- (c) for each class of derivatives, the extent and nature of the instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flows.

(3) Where any amount is transferred to or from the fair value reserve during the financial year, there must be stated in tabular form—

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- (a) the amount of the reserve as at the date of the beginning of the financial year and as at the balance sheet date respectively;
- (b) the amount transferred to or from the reserve during that year; and
- (c) the source and application respectively of the amounts so transferred.

58B. Where the company has derivatives that it has not included at fair value, there must be stated for each class of such derivatives—

- (a) the fair value of the derivatives in that class, if such a value can be determined in accordance with paragraph 44B, and
- (b) the extent and nature of the derivatives.

58C.—(1) Sub-paragraph (2) applies if—

- (a) the company has financial fixed assets that could be included at fair value by virtue of paragraph 44A,
- (b) the amount at which those assets are included under any item in the company's accounts is in excess of their fair value, and
- (c) the company has not made provision for diminution in value of those assets in accordance with paragraph 26(1) of this Part of this Schedule.

(2) There must be stated—

- (a) the amount at which either the individual assets or appropriate groupings of those individual assets are included in the company's accounts,
- (b) the fair value of those assets or groupings, and
- (c) the reasons for not making a provision for diminution in value of those assets, including the nature of the evidence that provides the basis for the belief that the amount at which they are stated in the accounts will be recovered.

Information where investment property and living animals and plants included at fair value

58D.—(1) This paragraph applies where the amounts to be included in a company's accounts in respect of investment property or living animals and plants have been determined in accordance with paragraph 44D.

(2) The balance sheet items affected and the basis of valuation adopted in determining the amounts of the assets in question in the case of each such item must be disclosed in a note to the accounts.

(3) In the case of investment property, for each balance sheet item affected there must be shown, either separately in the balance sheet or in a note to the accounts—

- (a) the comparable amounts determined according to the historical cost accounting rules; or
- (b) the differences between those amounts and the corresponding amounts actually shown in the balance sheet in respect of that item.

(4) In sub-paragraph (3) above, references in relation to any item to the comparable amounts determined in accordance with that sub-paragraph are references to—

- (a) the aggregate amount which would be required to be shown in respect of that item if the amounts to be included in respect of all the assets covered by that item were determined according to the historical cost accounting rules; and

- (b) the aggregate amount of the cumulative provisions for depreciation or diminution in value which would be permitted or required in determining those amounts according to those rules.”
- 9. In paragraph 59(1) (transfers to and from reserves and provisions)–
 - (a) in paragraph (b), for “provisions for liabilities and charges” substitute “provisions for liabilities”, and
 - (b) in paragraph (c), for “provision for liabilities and charges” substitute “provision for liabilities”
- 10. In paragraph 82 (general interpretation), at the appropriate place, insert–
 - ““Investment property” means land held to earn rent or for capital appreciation.”
- 11. After paragraph 82 (general interpretation) insert–

“Financial instruments

82A. For the purposes of this Part of this Schedule, references to “derivatives” include commodity-based contracts that give either contracting party the right to settle in cash or in some other financial instrument, except when such contracts–

- (a) were entered into for the purpose of, and continue to meet, the company’s expected purchase, sale or usage requirements,
- (b) were designated for such purpose at their inception, and
- (c) are expected to be settled by delivery of the commodity.

82B.—(1) The expressions listed in sub-paragraph (2) have the same meaning in paragraphs 44A to 44F, 58A to 58C and 82A of this Part of this Schedule as they have in Council Directives [78/660/EEC](#) on the annual accounts of certain types of companies and [86/635/EEC](#) on the annual accounts and consolidated accounts of banks and other financial institutions, as amended.**(2)**

(2) Those expressions are “available for sale financial asset”, “business combination”, “commodity-based contracts”, “derivative”, “equity instrument”, “exchange difference”, “fair value hedge accounting system”, “financial fixed asset”, “financial instrument”, “foreign entity”, “hedge accounting”, “hedge accounting system”, “hedged items”, “hedging instrument”, “held for trading purposes”, “held to maturity”, “monetary item”, “receivables”, “reliable market” and “trading portfolio”.

- 12. In paragraph 85(c) (interpretation of references to provisions for liabilities or charges)–
 - (a) for “provisions for liabilities or charges” substitute “provisions for liabilities”, and
 - (b) for “or loss” substitute “the nature of which is clearly defined and”.

(2) O.J. L222 of 14.8.1978, page 11, and O.J. L372 of 31.12.1986, page 1, as amended in particular by Directive [2001/65/EEC](#) (O.J. L238 of 27.12.2001, page 28).