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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Paragraph 45F. (See end of Document for details)

SCHEDULES

SCHEDULE 26

DERIVATIVE CONTRACTS

Modifications etc. (not altering text)

- C1 Sch. 26 modified by 1996 c. 8, s. 86(3C) (as inserted (24.7.2002 with effect as mentioned in s. 82(2) of the amending Act) by 2002 c. 23, s. 82, Sch. 25 Pt. 1 para. 6(3))
- C1 Sch. 26 modified by 1996 c. 8, s. 94A (as inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 13)
- C1 Sch. 26 applied by 1988 c. 1, s. 440(2B) (as amended (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 70)
- C1 Sch. 26 applied (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 9 para. 12 (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C1 Sch. 26 applied (with modifications) (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 9 para. 24 (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C1 Sch. 26 modified (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 10 para. 7; S.I. 2005/1444, art. 2(1), Sch. 1
- C1 Sch. 26 modified (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 10 para. 19; S.I. 2005/1444, art. 2(1), Sch. 1
- C1 Sch. 26 modified (19.7.2006) by Finance Act 2006 (c. 25), s. 136(2)(e)
- C1 Sch. 26 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), s. 177(4)(8)(11)

PART 9

MISCELLANEOUS

Creditor relationships: embedded derivatives which are exactly tracking contracts for differences

- [^{F1}45F(1) This paragraph applies to a derivative contract of a company for an accounting period if the following conditions are satisfied—
- [^{F2}(a) the derivative contract is a loan-contract embedded derivative to which the company is treated as party by virtue of a creditor relationship of the company (“the original relationship”),
 - (c) the derivative contract is treated as a contract for differences by virtue of section 94A(3) of the Finance Act 1996,]
 - (d) the additional conditions in sub-paragraph (2) are satisfied.
- (2) The additional conditions are—
- (a) the [^{F3}original relationship] is not one to which the company is party at any time in the accounting period for the purposes of a trade carried on by the company (but see sub-paragraph (3)),

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- ^{F4}(b)
- (c) the underlying subject matter of the derivative contract—
- ^{F5}(i)
- (ii) is qualifying ordinary shares listed on a recognised stock exchange,
- (d) the company is not a body falling within paragraph 45C(3) (authorised unit trusts etc),
- (e) the derivative contract is an exactly tracking contract (see sub-paragraphs (4) to (6)).
- ^{F6}(f) the original asset is not an existing asset.]
- (3) The condition in sub-paragraph (2)(a) does not apply if the company—
- (a) is party to the [^{F7}original relationship] for the purposes of life assurance business, or
- (b) is a mutual trading company.
- (4) For the purposes of this paragraph “an exactly tracking contract” is a contract for differences where D is equal to the amount determined by applying R% to C, where—
- D is the amount that must be paid to discharge the rights and liabilities that fall to be treated as comprised in the contract;
- R% is a relevant percentage change in the value of the underlying subject matter of the contract (see sub-paragraph (5));
- C is the amount falling for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 to be regarded in accordance with generally accepted accounting practice as the initial cost of [^{F8}the original asset].
- (5) In sub-paragraph (4), the reference to a relevant percentage change in the value of the underlying subject matter of the contract is a reference to the percentage change (if any) over the relevant period in—
- (a) the value of the assets which are the underlying subject matter of the contract,
- (b) or any index of the value of those assets.
- (6) In sub-paragraph (5) “the relevant period” means—
- (a) the period between—
- (i) the date when [^{F9}the original asset] came into existence, and
- (ii) the date when the [^{F10}debtor relationship corresponding to the creditor relationship mentioned in sub-paragraph (1)] comes to an end; or
- (b) any other period in which almost all of that period is comprised, and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under [^{F11}the original asset].
- (7) In this paragraph^{F12}—
- “existing asset” means an asset in relation to which paragraph 11(2) of Schedule 10 to the Finance Act 2004 has effect;]
- “qualifying ordinary shares” means shares which satisfy Condition 1 in paragraph 45D(5).
- ^{F13}(8) The [^{F14}original relationship] shall not be treated as a qualifying corporate bond by virtue of section 117(A1) of [^{F15}TCGA 1992].]

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Textual Amendments

- F1** Sch. 26 paras. 45A-45I inserted (with effect in accordance with art. 1(2)(3)(4) of the amending S.I.) by [The Finance Act 2002, Schedule 26, Parts 2 and 9 \(Amendment\) Order 2004 \(S.I. 2004/2201\)](#), arts. 1(1), **15**
- F2** Sch. 26 para. 45F(1)(a)(c) substituted for Sch. 26 para. 45F(1)(a)-(c) (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(2)**
- F3** Words in Sch. 26 para. 45F(2)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(3)**
- F4** Sch. 26 para. 45F(2)(b) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2002, Schedule 26, Parts 2 and 9 \(Amendment\) Order 2005 \(S.I. 2005/646\)](#), arts. 1(1), **15**
- F5** Sch. 26 para. 45F(2)(c)(i) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(4)**
- F6** Sch. 26 para. 45F(2)(f) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(5)**
- F7** Words in Sch. 26 para. 45F(3)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(6)**
- F8** Words in Sch. 26 para. 45F(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(7)**
- F9** Words in Sch. 26 para. 45F(6)(a)(i) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(8)(a)**
- F10** Words in Sch. 26 para. 45F(6)(a)(ii) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(8)(b)**
- F11** Words in Sch. 26 para. 45F(6)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(8)(c)**
- F12** Words in Sch. 26 para. 45F(7) inserted (with effect in accordance with art. 1(4) of the amending S.I.) by [The Finance Act 2002, Schedule 26, Parts 2 and 9 \(Amendment No. 2\) Order 2005 \(S.I. 2005/2082\)](#), arts. 1(2), **15(3)**
- F13** Sch. 26 para. 45F(8) substituted (with effect in accordance with art. 1(4) of the amending S.I.) by [The Finance Act 2002, Schedule 26, Parts 2 and 9 \(Amendment No. 2\) Order 2005 \(S.I. 2005/2082\)](#), arts. 1(2), **15(4)**
- F14** Words in Sch. 26 para. 45F(8) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **15(9)**
- F15** Words in Sch. 26 para. 45F(8) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2002, Schedule 26, \(Parts 2 and 9\) \(Amendment\) Order 2006 \(S.I. 2006/3269\)](#), arts. 1, **30**

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