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SCHEDULES

SCHEDULE 31

Section 122

DISCLOSURE OF TAX AVOIDANCE SCHEMES

PART 1

AMENDMENTS OF PART 7 OF FA 2004

- 1 Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.
2 Before section 306 insert—

Introduction

“305A(1) This Part makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage.

(2) Among other things, this Part—

- (a) imposes duties to provide information to HMRC (and others);
- (b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where the disclosure duties have been complied with and in other cases);
- (c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;
- (d) makes provision about penalties.”

- 3 In section 307(4A) (meaning of “makes a firm approach”), omit “notifiable” in both places.
4 After section 310C insert—

“310D Notice of potential allocation of reference number: arrangements and proposals suspected of being notifiable

(1) This section applies where—

- (a) HMRC have become aware that—
 - (i) a transaction forming part of arrangements has been entered into,
 - (ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or
 - (iii) a proposal for arrangements is made available for implementation, and

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- (b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.
- (2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.
- (3) But HMRC may not issue a notice under this section before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) of subsection (1) is met.
- (4) A notice under this section must be issued to any person who, on the day the notice is issued, HMRC reasonably suspect to be a promoter in relation to the arrangements or proposal.
- (5) A notice under this section may be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.”

5 For section 311 substitute—

“311 Allocation of reference number to arrangements

- (1) This section applies in—
- (a) a subsection (2) case, or
 - (b) a subsection (3) case.
- (2) A “subsection (2) case” is a case where a person complies, or purports to comply, with section 308(1) or (3), 309(1) or 310 in relation to a notifiable proposal or notifiable arrangements.
- (3) A “subsection (3) case” is a case where—
- (a) notice in relation to arrangements or a proposal has been issued in accordance with section 310D (notice of potential allocation of reference number),
 - (b) the notice period has expired, and
 - (c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.
- (4) “The notice period” means—
- (a) the period of 30 days beginning with the day on which the notice under section 310D is issued, or
 - (b) such longer period as HMRC may direct.
- (5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to subsection (6).
- (6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.
- (7) The time limit for allocating a reference number is—

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- (a) in a subsection (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with section 308(1) or (3), 309(1) or 310, as the case may be;
 - (b) in a subsection (3) case, the end of the period of one year beginning with the day after the end of the notice period (see subsection (4)).
- (8) HMRC may at any time withdraw a reference number allocated to arrangements in a subsection (3) case.
- (9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

311A Duty of HMRC to notify persons of reference number

- (1) If a reference number is allocated in a case within section 311(2), HMRC must notify the following of the number—
- (a) the person who has complied, or purported to comply, with section 308(1) or (3), 309(1) or 310, and
 - (b) where the person has complied, or purported to comply, with section 308(1) or (3), any other person—
 - (i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements (or a proposal implemented by them), and
 - (ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with section 308(1) or (3).
- (2) If a reference number is allocated in a case within section 311(3), HMRC must notify the following of the number—
- (a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements, and
 - (b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.
- (3) The duty in subsection (2) applies irrespective of whether the notice under section 310D as a result of which the reference number was allocated has been issued to the person concerned.

311B Right of appeal: section 311(3) case

- (1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).
- (2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.
- (3) An appeal under this section may be brought only on the following grounds—

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- (a) that, in issuing the notice under section 310D as a result of which the reference number was allocated, HMRC did not act in accordance with that section;
 - (b) that, in allocating the reference number, HMRC did not act in accordance with section 311;
 - (c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.
- (4) Notice of appeal under this section must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.
- (5) Notice may be given after that time if the tribunal give permission.
- (6) The notice of appeal must specify the grounds of appeal.
- (7) On an appeal under this section, the tribunal may affirm or cancel HMRC's decision.
- (8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.
- (9) Bringing an appeal under this section does not prevent—
- (a) a power conferred by this Part from being exercised, or
 - (b) a duty imposed by this Part from continuing to apply.

311C Duty to provide further information requested by HMRC: section 311(3) case

- (1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).
- (2) HMRC may require a relevant person to provide—
- (a) specified information about the arrangements or proposed arrangements;
 - (b) documents relating to the arrangements or proposed arrangements.
- (3) In subsection (2), “relevant person” means—
- (a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements;
 - (b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.
- (4) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.
- (5) Where HMRC impose a requirement on a person under subsection (2), the person must comply with the requirement before the end of—
- (a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or

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- (b) such longer period as HMRC may direct.”
- 6 (1) Section 312 (duty of promoter to notify client of reference number) is amended as follows.
- (2) In the heading, at the end insert “ : section 311(2) case ”.
- (3) In subsection (2)—
- (a) after “any reference number” insert “ allocated in a case within section 311(2) ”;
- (b) for “one reference number” substitute “ one such reference number ”.
- 7 After section 312 insert—

“312ZA Duty to notify client of reference number: section 311(3) case

- (1) This section applies where a person is providing (or has provided) services to another person (“the client”) in connection with arrangements or proposed arrangements.
- (2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case within section 311(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to—
- (a) the arrangements or proposed arrangements, or
- (b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).
- (3) In subsection (2), “the relevant date” means the date on which the person has been notified of the reference number.
- (4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty imposed by subsection (2) after the date specified in the notice.”
- 8 (1) Section 312A (duty of client to notify parties of reference number) is amended as follows.
- (2) In subsection (1)—
- (a) after “prescribed information” insert “ under section 312 ”;
- (b) for “allocated to the notifiable arrangements or proposed notifiable arrangements” substitute “allocated to—
- (a) the notifiable arrangements or proposed notifiable arrangements, or
- (b) any arrangements substantially the same as the notifiable arrangements or proposed notifiable arrangements.”
- (3) After subsection (1) insert—
- “(1A) This section also applies where a person (a “client”) to whom a person is providing (or has provided) services in connection with arrangements or proposed arrangements receives prescribed information under section 312ZA relating to the reference number allocated to—

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- (a) the arrangements or proposed arrangements, or
 - (b) any arrangements substantially the same as the arrangements or proposed arrangements.”
- (4) In subsection (4), for “notifiable arrangements or a notifiable proposal” substitute “arrangements or a proposal”.
- 9 (1) Section 312B (duty of client to provide information to promoter) is amended as follows.
- (2) In the heading, omit “to promoter”.
- (3) For subsection (1) substitute—
- “(1) This section applies where a person (“the client”) has been provided with information under section 312(2) or 312ZA(2) (prescribed information about reference number).”
- (4) In subsection (2), for “promoter” substitute “person who provided the information”.
- 10 (1) Section 313 (duty of parties to notifiable arrangements to notify Board of number etc) is amended as follows.
- (2) For the heading substitute “Duty of parties to notify HMRC of reference number etc”.
- (3) In subsection (1), omit “notifiable”.
- (4) In subsection (2), for “any notifiable arrangements” substitute “arrangements of any description”.
- (5) In subsection (5), omit “notifiable”.
- 11 (1) Section 313ZA (duty to provide details of clients) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the promoter is subject to the requirement under section 312(2) to provide to the client prescribed information relating to the reference number allocated to—
 - (i) the arrangements, or
 - (ii) any arrangements substantially the same as the arrangements, or
 - (b) the promoter has failed to comply with section 308(1) or (3) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to—
 - (i) the notifiable arrangements, or
 - (ii) any arrangements substantially the same as the arrangements”.
- (3) After subsection (1) insert—
- “(1A) This section also applies where—
- (a) a person (“the provider”) is providing (or has provided) services to another person (“the client”) in connection with arrangements or proposed arrangements, and

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- (b) the provider is subject to the requirement under section 312ZA(2) to provide to the client prescribed information relating to the reference number allocated to—
 - (i) the arrangements or proposed arrangements, or
 - (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
 - (4) Omit subsection (2).
 - (5) In subsection (3), after “promoter” insert “ or (as the case may be) provider ”.
 - (6) For subsection (4) substitute—
 - “(4) In subsection (3) “the relevant period” means—
 - (a) in a case within subsection (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that subsection;
 - (b) in a case within subsection (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that subsection.”
 - (7) After subsection (5) insert—
 - “(6) The provider need not comply with subsection (3) in relation to any arrangements at any time after HMRC have given notice under section 312ZA(4) in relation to the arrangements.”
- 12 (1) Section 313ZB (enquiry following disclosure of client details) is amended as follows.
 - (2) In subsection (1), for paragraph (a) substitute—
 - “(a) a person (“the service provider”) is providing or has provided services to another person (“the client”) in connection with arrangements or proposed arrangements,
 - (aa) the service provider has provided HMRC with information in relation to the client under section 313ZA(3), and”.
 - (3) In subsection (2), for “promoter”, in both places, substitute “ service provider ”.
 - (4) In subsection (3), for “promoter” substitute “ service provider ”.
- 13 (1) Section 313ZC (duty of employer to notify HMRC of details of employees etc) is amended as follows.
 - (2) For subsection (2) substitute—
 - “(2) Condition A is that—
 - (a) a person who is a promoter in relation to notifiable arrangements or a notifiable proposal is providing (or has provided) services in connection with the arrangements or proposal to a person (“the client”), or
 - (b) a person is providing (or has provided) services in connection with arrangements or a proposal to a person (“the client”).”
 - (3) In subsection (3), after “312(2)” insert “ or 312ZA(2) ”.
 - (4) In subsection (4), omit “notifiable”, in both places.

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- (5) In subsection (6)—
- (a) omit “notifiable”, in both places;
 - (b) after “312(6)” insert “, 312ZA(4) ”.
- 14 In section 316 (information to be provided in form and manner specified by HMRC), in subsection (2)—
- (a) after “310C,” insert “ 311C, ”;
 - (b) after “312(2),” insert “ 312ZA(2), ”.
- 15 In section 316A (duty to provide additional information), in subsections (1) and (2), after “312(2)” insert “, 312ZA(2) ”.
- 16 (1) Section 316C (publication by HMRC) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) HMRC may publish information about—
- (a) any arrangements, or proposed arrangements, to which a reference number is allocated under section 311;
 - (b) where the reference number is allocated in a case within section 311(2), any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;
 - (c) where the reference number is allocated in a case within section 311(3), any person who is or has been—
 - (i) a promoter in relation to the arrangements or proposed arrangements, or
 - (ii) otherwise involved in the supply of the arrangements or proposed arrangements.”
- (3) In subsection (2)—
- (a) in paragraph (a)—
 - (i) after “(1)(b)” insert “ or (c) ”;
 - (ii) for “308, 309 or 310” substitute “ any provision of this Part ”;
 - (b) for paragraph (b) substitute—

“(b) any ruling of a court or tribunal relating to—

 - (i) arrangements within subsection (1)(a);
 - (ii) a person within subsection (1)(b), in that person's capacity as a promoter;
 - (iii) a person within subsection (1)(c), in that person's capacity as a promoter or a person otherwise involved in the supply of arrangements or proposed arrangements;”;
 - (c) in paragraph (c), omit “notifiable”;
 - (d) in paragraph (e), after “(1)(b)” insert “ or (c) ”.
- (4) In subsection (4), omit “notifiable”.
- (5) After subsection (4) insert—
- “(4A) No information may be published under this section in respect of a person involved in the supply of arrangements or proposed arrangements where

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there are reasonable grounds for believing that the person's involvement is limited to activities subject to legal professional privilege.”

- (6) In subsection (5)—
- (a) for “who is a promoter within subsection (1)(b)” substitute “ within subsection (1)(b) or (c) ”;
 - (b) for “as a promoter” substitute “ as a promoter or a person involved in the supply of arrangements or proposed arrangements ”.
- (7) In subsection (6), for “a promoter within subsection (1)(b)” substitute “ a person within subsection (1)(b) or (c) ”.
- (8) After subsection (6) insert—
- “(6A) Where the reference number is allocated in a case within section 311(3)—
- (a) information that identifies a person within subsection (1)(c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;
 - (b) no information that identifies a person within subsection (1)(c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (6B) In determining a period of one year for the purposes of subsection (6A)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal.”
- 17 In section 316D (section 316C: subsequent judicial rulings), in subsection (1)(a), omit “notifiable”, in both places.
- 18 In section 318(1) (interpretation of Part 7), for the definition of “reference number” substitute—
- ““reference number” means a reference number allocated under section 311;”.

PART 2

AMENDMENTS OF SCHEDULE 17 TO F(NO.2)A 2017

- 19 Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) is amended as follows.
- 20 Before Part 1 insert—

“PART A1

INTRODUCTION

- A1 (1) This Schedule makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage in relation to VAT or another indirect tax.
- (2) Among other things, this Schedule—

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- (a) imposes duties to provide information to HMRC (and others);
- (b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where the disclosure duties have been complied with and in other cases);
- (c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;
- (d) makes provision about penalties.”

21 In paragraph 10(1) (meaning of “makes a firm approach”), omit “notifiable”.

22 After paragraph 21 insert—

*“Notice of potential allocation of reference number:
arrangements and proposals suspected of being notifiable*

21A(1) This paragraph applies where—

- (a) HMRC have become aware that—
 - (i) a transaction forming part of arrangements has been entered into,
 - (ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or
 - (iii) a proposal for arrangements is made available for implementation, and
- (b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.

(2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.

(3) But HMRC may not issue a notice under this paragraph before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) of sub-paragraph (1) is met.

(4) A notice under this paragraph must be issued to any person who, on the day the notice is issued, HMRC reasonably suspect to be a promoter in relation to the arrangements or proposal.

(5) A notice under this paragraph may be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.”

23 For paragraph 22 (and the italic heading before it) substitute—

“Allocation of reference number to arrangements

22 (1) This paragraph applies in—

- (a) a sub-paragraph (2) case, or
- (b) a sub-paragraph (3) case.

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- (2) A “sub-paragraph (2) case” is a case where a person complies, or purports to comply, with paragraph 11(1), 12(1), 17(2) or 18(2) in relation to a notifiable proposal or notifiable arrangements.
- (3) A “sub-paragraph (3) case” is a case where—
 - (a) notice in relation to arrangements or a proposal has been issued in accordance with paragraph 21A (notice of potential allocation of reference number),
 - (b) the notice period has expired, and
 - (c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.
- (4) “The notice period” means—
 - (a) the period of 30 days beginning with the day on which the notice under paragraph 21A is issued, or
 - (b) such longer period as HMRC may direct.
- (5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to sub-paragraph (6).
- (6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.
- (7) The time limit for allocating a reference number is—
 - (a) in a sub-paragraph (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with paragraph 11(1), 12(1), 17(2) or 18(2), as the case may be;
 - (b) in a sub-paragraph (3) case, the end of the period of one year beginning with the day after the end of the notice period (see sub-paragraph (4)).
- (8) HMRC may at any time withdraw a reference number allocated to arrangements in a sub-paragraph (3) case.
- (9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

Duty of HMRC to notify persons of reference number

- 22A(1) If a reference number is allocated in a case within paragraph 22(2), HMRC must notify the following of the number—
- (a) the person who has complied, or purported to comply, with paragraph 11(1), 12(1), 17(2) or 18(2), and
 - (b) where the person has complied, or purported to comply, with paragraph 11(1) or 12(1), any other person—
 - (i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements (or a proposal implemented by them), and

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- (ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with paragraph 11(1) or 12(1).
- (2) If a reference number is allocated in a case within paragraph 22(3), HMRC must notify the following of the number—
 - (a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements, and
 - (b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.
- (3) The duty in sub-paragraph (2) applies irrespective of whether the notice under paragraph 21A as a result of which the reference number was allocated has been issued to the person concerned.

Right of appeal: paragraph 22(3) case

- 22B (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).
- (2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.
 - (3) An appeal under this paragraph may be brought only on the following grounds—
 - (a) that, in issuing the notice under paragraph 21A as a result of which the reference number was allocated, HMRC did not act in accordance with that paragraph;
 - (b) that, in allocating the reference number, HMRC did not act in accordance with paragraph 22;
 - (c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.
 - (4) Notice of appeal under this paragraph must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.
 - (5) Notice may be given after that time if the tribunal give permission.
 - (6) The notice of appeal must specify the grounds of appeal.
 - (7) On an appeal under this paragraph, the tribunal may affirm or cancel HMRC's decision.
 - (8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.
 - (9) Bringing an appeal under this paragraph does not prevent—
 - (a) a power conferred by this Part of this Schedule from being exercised, or
 - (b) a duty imposed by this Part of this Schedule from continuing to apply.

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Duty to provide further information requested by HMRC: paragraph 22(3) case

22C (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).

- (2) HMRC may require a relevant person to provide—
- (a) specified information about the arrangements or proposed arrangements;
 - (b) documents relating to the arrangements or proposed arrangements.
- (3) In sub-paragraph (2), “relevant person” means—
- (a) any person who HMRC reasonably suspect to be, or to have been, a promoter in relation to the arrangements or the proposed arrangements;
 - (b) any other person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements.
- (4) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.
- (5) Where HMRC impose a requirement on a person under sub-paragraph (2), the person must comply with the requirement before the end of—
- (a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or
 - (b) such longer period as HMRC may direct.”

24 In the italic heading before paragraph 23, at the end insert “: paragraph 22(2) case”.

25 (1) Paragraph 23 (duty of promoter to notify client of reference number) is amended as follows.

- (2) In sub-paragraph (2)—
- (a) after “any reference number” insert “ allocated in a case within paragraph 22(2) ”;
 - (b) for “one reference number” substitute “ one such reference number ”.

26 After paragraph 23 insert—

“Duty to notify client of reference number: paragraph 22(3) case

23A (1) This paragraph applies where a person is providing (or has provided) services to any person (“the client”) in connection with arrangements or proposed arrangements.

- (2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case within paragraph 22(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to—
- (a) the arrangements or proposed arrangements, or

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- (b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).
- (3) “The relevant date” means the date on which the person has been notified of the reference number.
- (4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty under sub-paragraph (2) after the date specified in the notice.”
- 27 (1) Paragraph 24 (duty of client to notify parties of reference number) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) omit “who is a promoter in relation to notifiable arrangements or a notifiable proposal”;
 - (b) for “the arrangements or proposal” substitute “arrangements or a proposal”.
 - (3) For sub-paragraph (2) substitute—
 - “(2) Sub-paragraph (3) applies where—
 - (a) the client receives prescribed information under paragraph 23 relating to the reference number allocated to—
 - (i) the arrangements or proposed arrangements, or
 - (ii) any arrangements substantially the same as the arrangements or proposed arrangements; or
 - (b) the client receives prescribed information under paragraph 23A relating to the reference number allocated to—
 - (i) the arrangements or proposed arrangements, or
 - (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
 - (4) In sub-paragraph (4)(a), for “notifiable arrangements or proposed notifiable arrangements” substitute “the arrangements or proposed arrangements”.
 - (5) In sub-paragraph (4)(b), for “by the promoter under paragraph 23” substitute “under paragraph 23 or (as the case may be) paragraph 23A”.
 - (6) In sub-paragraph (5), for “notifiable arrangements or a notifiable proposal” substitute “arrangements or a proposal”.
- 28 In the italic heading before paragraph 25, omit “to promoter”.
- 29 (1) Paragraph 25 (duty of client to provide information to promoter) is amended as follows.
 - (2) For sub-paragraph (1) substitute—
 - “(1) This paragraph applies where a person (“the client”) has been provided with information under paragraph 23(2) or 23A(2) (prescribed information about reference number).”
 - (3) In sub-paragraph (2), for “promoter” substitute “person who provided the information”.

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- 30 For the italic heading before paragraph 26 substitute “ Duty of parties to notify HMRC of reference number etc ”.
- 31 (1) Paragraph 26 (duty of parties to notifiable arrangements to notify HMRC of number etc) is amended as follows.
- (2) In sub-paragraph (1), omit “notifiable”.
- (3) In sub-paragraph (1)(a), after “23” insert “ , 23A ”.
- (4) In sub-paragraph (2), for “any notifiable arrangements” substitute “ arrangements of any description ”.
- (5) In sub-paragraph (5), omit “notifiable”.
- 32 In the italic heading before paragraph 27 omit “of promoter”.
- 33 (1) Paragraph 27 (duty of promoter to provide details of clients) is amended as follows.
- (2) In sub-paragraph (1), for paragraphs (a) and (b) substitute—
- “ (a) the promoter is subject to the requirement under paragraph 23(2) to provide to the client prescribed information relating to the reference number allocated to—
- (i) the arrangements, or
- (ii) any arrangements substantially the same as the arrangements; or
- (b) the promoter has failed to comply with paragraph 11(1) or 12(1) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to—
- (i) the notifiable arrangements, or
- (ii) any arrangements substantially the same as the arrangements.”
- (3) After sub-paragraph (1) insert—
- “(1A) This paragraph also applies where—
- (a) a person (“the provider”) is providing (or has provided) services to another person (“the client”) in connection with arrangements or proposed arrangements, and
- (b) the provider is subject to the requirement under paragraph 23A(2) to provide to the client prescribed information relating to the reference number allocated to—
- (i) the arrangements or proposed arrangements, or
- (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
- (4) Omit sub-paragraph (2).
- (5) In sub-paragraph (3), after “promoter” insert “ or (as the case may be) provider ”.
- (6) For sub-paragraph (4) substitute—
- “(4) In sub-paragraph (3) “the relevant period” means—

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- (a) in a case within sub-paragraph (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that sub-paragraph;
 - (b) in a case within sub-paragraph (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that sub-paragraph.”
- (7) After sub-paragraph (5) insert—
 - “(6) The provider need not comply with sub-paragraph (3) in relation to any arrangements at any time after HMRC have given notice under paragraph 23A(4) in relation to the arrangements.”
- 34 (1) Paragraph 28 (enquiry following disclosure of client details) is amended as follows.
 - (2) In sub-paragraph (1), for paragraph (a) substitute—
 - “(a) a person (“the service provider”) is providing or has provided services to another person (“the client”) in connection with arrangements or proposed arrangements,
 - (aa) the service provider has provided HMRC with information in relation to the client under paragraph 27(3), and”.
 - (3) In sub-paragraph (2), for “promoter”, in both places, substitute “ service provider ”.
 - (4) In sub-paragraph (3), for “promoter” substitute “ service provider ”.
 - (5) In sub-paragraph (4) for “promoter” substitute “ service provider ”.
- 35 In paragraph 33 (duty to provide additional information), in sub-paragraphs (1) and (2), after “23(2)” insert “ , 23A(2) ”.
- 36 In paragraph 34 (information to be provided in form and manner specified by HMRC), in sub-paragraph (2)—
 - (a) after “21(3),” insert “ 22C, ”;
 - (b) after “23(2),” insert “ 23A(2), ”.
- 37 (1) Paragraph 36 (publication by HMRC) is amended as follows.
 - (2) For sub-paragraph (1) substitute—
 - “(1) HMRC may publish information about—
 - (a) any arrangements, or proposed arrangements, to which a reference number is allocated under paragraph 22;
 - (b) where the reference number is allocated in a case within paragraph 22(2), any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;
 - (c) where the reference number is allocated in a case within paragraph 22(3), any person who is or has been—
 - (i) a promoter in relation to the arrangements or proposed arrangements, or
 - (ii) otherwise involved in the supply of the arrangements or proposed arrangements.”
 - (3) In sub-paragraph (2)—
 - (a) in paragraph (a)—
 - (i) after “(1)(b)” insert “ or (c) ”;

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- (ii) for “11, 12, 17 or 18” substitute “ any provision of this Part ”;
- (b) for paragraph (b) substitute—
 - “(b) any ruling of a court or tribunal relating to—
 - (i) arrangements within sub-paragraph (1)(a);
 - (ii) a person within sub-paragraph (1)(b), in that person's capacity as a promoter;
 - (iii) a person within sub-paragraph (1)(c), in that person's capacity as a promoter or a person otherwise involved in the supply of arrangements or proposed arrangements;”;
 - (c) in paragraph (c), omit “notifiable”;
 - (d) in paragraph (d), after “(1)(b)” insert “ or (c) ”.
- (4) In sub-paragraph (4), omit “notifiable”.
- (5) After sub-paragraph (4), insert—

“(4A) No information may be published under this paragraph in respect of a person involved in the supply of arrangements or proposed arrangements where there are reasonable grounds for believing that the person's involvement is limited to activities subject to legal professional privilege.”
- (6) In sub-paragraph (5)—
 - (a) for “who is a promoter within sub-paragraph (1)(b)” substitute “ within sub-paragraph (1)(b) or (c) ”;
 - (b) for “as a promoter” substitute “ as a promoter or a person involved in the supply of arrangements or proposed arrangements ”.
- (7) In sub-paragraph (6), for “a promoter within sub-paragraph (1)(b)” substitute “ a person within sub-paragraph (1)(b) or (c) ”.
- (8) After sub-paragraph (6) insert—

“(7) Where the reference number is allocated in a case within paragraph 22(3)—
 - (a) information that identifies a person within sub-paragraph (1)(b) or (c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;
 - (b) no information that identifies a person within sub-paragraph (1)(b) or (c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (8) In determining a period of one year for the purposes of sub-paragraph (7) (a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal.”
- 38 In paragraph 37 (paragraph 36: subsequent judicial rulings), in sub-paragraph (1) (a), omit “notifiable”, in both places.
- 39 (1) Paragraph 39 (penalty for failure to comply with duties under Part 1 of Schedule) is amended as follows.
 - (2) In sub-paragraph (1)(a)(i), for “or 19” substitute “ , 19 or 22C ”.

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- (3) In sub-paragraph (2)—
- (a) after paragraph (f) insert—
- “(fa) paragraph 22C (duty to provide further information requested by HMRC: paragraph 22(3) case);”;
- (b) after paragraph (g) insert—
- “(ga) paragraph 23A(2) (duty to notify client of reference number: paragraph 22(3) case)”.
- (4) In sub-paragraph (4), in the table, at the end insert—
- | | |
|---|---|
| “A failure to comply with paragraph 22C | The first day after the end of the period before the end of which the person must comply with paragraph 22C”. |
|---|---|
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- 40 In paragraph 40 (penalties: supplementary), in sub-paragraph (2), after paragraph (a) (but before the “and” immediately after it) insert—
- “(aa) in the case of a penalty for a person's failure to comply with paragraph 22C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal.”.
- 41 In paragraph 57(1) (interpretation of Schedule), for the definition of “reference number” substitute—
- ““reference number” means a reference number allocated under paragraph 22;”.

PART 3

OTHER AMENDMENTS

- 42 (1) Section 98C of TMA 1970 (notification under Part 7 of FA 2004: penalties) is amended as follows.
- (2) In subsection (1)(a)(i), for “or (ca)” substitute “, (ca) or (cc)”.
- (3) In subsection (2)—
- (a) after paragraph (cb) insert—
- “(cc) section 311C (duty to provide further information requested by HMRC: section 311(3) case);”;
- (b) after paragraph (d) insert—
- “(dza) section 312ZA(2) (duty to notify client of reference number: section 311(3) case);”.
- (4) In subsection (2ZA)(b), at the beginning insert “ (subject to subsection (2ZAB)) ”.
- (5) In subsection (2ZA), in the table, at the end insert—

“A failure to comply with section 311C	The first day after the end of the period before the end of which the person must comply with section 311C”.
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(6) After subsection (2ZA) insert—

“(2ZAA) Subsection (2ZAB) applies where—

- (a) a person fails to comply with a provision mentioned in subsection (2) (a), (b) or (c) in respect of arrangements or proposed arrangements, and
- (b) a reference number is subsequently allocated to the arrangements or proposed arrangements in a case within section 311(3) of the Finance Act 2004 (case where notice given under section 310D)).

(2ZAB) Where this subsection applies, the failure to comply is taken for the purposes of this section to have ceased on the day before the reference number is allocated, if it has not already ceased.”

(7) In subsection (2ZB), after paragraph (a) (but before the “and” immediately after it) insert—

“(aa) in the case of a penalty for a person's failure to comply with section 311C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal.”.

43 (1) Chapter 3 of Part 4 of FA 2014 (accelerated payment) is amended as follows.

(2) In section 219 (circumstances in which an accelerated payment notice may be given)

- (a) in subsection (5)(a), omit “notifiable”;
- (b) in subsection (5)(b), omit “notifiable” in each place;
- (c) in subsection (5)(c)—
 - (i) for “the promoter” substitute “ a person ”;
 - (ii) after “312(2)” insert “ or 312ZA(2) ”;
 - (iii) omit “notifiable”;
- (d) in subsection (6)—
 - (i) omit “notifiable”;
 - (ii) after “312(6)” insert “ or 312ZA(4) ”;
 - (iii) for “promoters” substitute “ persons ”.

(3) In section 227 (withdrawal, modification or suspension of accelerated payment notice), for subsection (5) substitute—

“(5) Where an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(b), and—

- (a) under section 311(8) or 311B(8) of FA 2004, HMRC withdraw the reference number allocated to the chosen arrangements, or to proposed arrangements implemented by the chosen arrangements, or
- (b) HMRC give notice under section 312(6) or 312ZA(4) of FA 2004, with the result that persons are no longer under the duty in section 312(2) or (as the case may be) section 312ZA(2) of that Act in relation to the chosen arrangements,

HMRC must withdraw the accelerated payment notice, to the extent that it was given by virtue of the Condition C requirement.”

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PART 4

COMMENCEMENT

- 44 This Schedule comes into force on the day on which this Act is passed (“the commencement date”), subject to paragraphs 45 and 46.
- 45 (1) Section 310D of FA 2004 (inserted by paragraph 4) applies only in relation to transactions entered into, firm approaches made, and proposals that are made available for implementation, on or after the commencement date.
- (2) So far as applicable to a person who is not a promoter in relation to the arrangements or proposed arrangements, section 312ZA of FA 2004 (inserted by paragraph 7) applies only where a person is providing, or has provided, services to the client (within the meaning of that section) on or after the commencement date.
- (3) Section 316C(1)(c) of FA 2004 (inserted by paragraph 16(2)) applies—
- (a) in relation to a person who is or was a promoter in relation to arrangements or proposed arrangements, regardless of when that is or was the case, and
 - (b) in relation to a person who is otherwise involved in the supply of arrangements or proposed arrangements, only where the person is so involved on or after the commencement date.
- (4) Expressions used in this paragraph and Part 7 of FA 2004 have the same meaning in this paragraph as they have in that Part.
- 46 (1) Paragraph 21A of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 22) applies only in relation to transactions entered into, firm approaches made, and proposals that are made available for implementation, on or after the commencement date.
- (2) So far as applicable to a person who is not a promoter in relation to the arrangements or proposed arrangements, paragraph 23A of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 26) applies only where a person is providing, or has provided, services to the client (within the meaning of that paragraph) on or after the commencement date.
- (3) Paragraph 36(1)(c) of Schedule 17 to F(No.2)A 2017 (inserted by paragraph 37(2)) applies—
- (a) in relation to a person who is or was a promoter in relation to arrangements or proposed arrangements, regardless of when that is or was the case, and
 - (b) in relation to a person who is otherwise involved in the supply of arrangements or proposed arrangements, only where the person is so involved on or after the commencement date.
- (4) Expressions used in this paragraph and Schedule 17 to F(No.2)A 2017 have the same meaning in this paragraph as they have in that Schedule.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 31.