

(b) after paragraph (2A) insert—

“(2B) The circumstances prescribed by this paragraph are where there is a disposal of an asset representing a loan relationship in relation to which amounts have fallen within regulation 12A of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004.”,

(c) in paragraph (4), after “(2A)” insert “and amounts within paragraph (2B)”.

Amendment of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004

3.—(1) The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 are amended as follows.

(2) After regulation 12 insert—

“Loan relationships as permanent as equity

12A.—(1) The amounts described in paragraph (3) are not brought into account for the purposes of Part 5 of the Corporation Tax Act 2009 in relation an asset representing a loan relationship of a company which is denominated in a currency which is not, or was not, the company’s functional currency, if there is a relevant change of accounting policy.

(2) A relevant change of accounting policy is a change of accounting policy in drawing up a company’s accounts from one period of account to the next where in accordance with generally accepted accounting practice—

(a) in the earlier period the loan relationship is treated (in accordance with SSAP 20) as permanent as equity and either—

(i) the loan relationship was brought into account at an historic rate, or

(ii) debits and credits in relation to the loan relationship were not brought into account by virtue of section 328(3) of the Corporation Tax Act 2009, and

(b) in the later period the loan relationship was brought into account at a spot rate of exchange.

(3) The amounts are—

(a) debits and credits representing the difference between the carrying value of the loan relationship recognised for accounting purposes at the end of the earlier period and the value recognised at the beginning of the later period to the extent the debits or credits are attributable to the different rates of exchange, and

(b) debits and credits representing exchange gains and losses arising in the later period and subsequent accounting periods in relation to the loan relationship.

(4) But an amount is not within paragraph (3)(b) to the extent that in any period —

(a) the loan relationship is a hedged item under a hedging relationship where the hedging instrument is a liability representing a loan relationship of the company or an obligation of the company under a derivative contract to pay in exchange for one currency an amount in a second currency, or

(b) regulation 3(5) applies in relation to the loan relationship.

(5) For the purposes of this regulation—

(a) where there is a change of accounting policy in drawing up a company’s accounts from one period of account to the next, the “earlier period” is the first of those periods of account and the “later period” is the next period;

(b) “functional currency” means the currency of the primary economic environment in which a company operates;

(c) “historic rate” and “as permanent as equity” have the same meaning as for accounting purposes;

- (d) “SSAP 20” means Statement of Standard Accounting Practice No.20 on Foreign Currency Translation, issued by the Accounting Standards Board on 1st April 1983.”

Amendment of the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004

4.—(1) The Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004(a) are amended as follows.

(2) In regulation 3 (prescribed debits and credits brought into account: general), after “regulation 3C” insert “and regulations 7, 8 and 12A of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004”.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002 and the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 to make provision in relation to bringing into account debits and credits in respect of loan relationships treated as permanent as equity for accounting purposes.

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of these Regulations is given by section 465A(7) of the Corporation Tax Act 2009.

Regulation 2 amends regulation 13 of the Exchange Gains and Losses (Bringing into Account Gains or Losses) Regulations 2002 to bring into account on the disposal of an asset representing a loan relationship amounts disregarded under regulation 12A of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004.

Regulation 3 amends the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 to insert regulation 12A which provides that on a change of accounting practice on or after 1st October 2012 certain amounts in relation to loans as permanent as equity are not brought into account.

Regulation 4 amends the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 to make it clear that amounts disregarded under regulations 7, 8 and 12A of the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 are not brought into account under those Regulations.

A Tax Information and Impact Note (TIIN) covering this instrument was published on 7th August 2014 alongside draft legislation and is available on the GOV.UK website at www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

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(a) S.I. 2004/3271, amended by S.I. 2006/3238; there are other amending instruments but none is relevant.

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