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## SCHEDULES

### SCHEDULE 19

Section 73

#### THE BANK LEVY

##### PART 1

###### INTRODUCTION

- 1 There is to be a tax called “the bank levy”.
- 2 The bank levy is charged on certain types of equity and liabilities of certain groups of entities and individual entities as set out in Part 2 of this Schedule.
- 3 In this Schedule—
  - Part 3 contains provision defining the different types of groups of entities in relation to which the bank levy is charged;
  - Part 4 contains provision defining the equity and liabilities on which the bank levy is charged;
  - Part 5 contains supplementary provision;
  - Part 6 deals with the collection and management of the bank levy;
  - Part 7 deals with double taxation relief;
  - Part 8 contains definitions;
  - Part 9 confers a power to make changes to this Schedule in specified circumstances.

##### PART 2

###### CHARGING OF BANK LEVY

###### *Bank levy to be charged in relation to certain groups of entities*

- 4 (1) The bank levy is charged if, as at the end of a period of account (“the chargeable period”) of an entity (“the parent entity”)—
  - (a) the parent entity is a parent and is not a subsidiary of any other entity, and
  - (b) the group (“the relevant group”) for which the parent entity is the parent is a group within sub-paragraph (2).
- (2) The groups within this sub-paragraph are—
  - (a) a UK banking group,
  - (b) a building society group,
  - (c) a foreign banking group, or
  - (d) a relevant non-banking group.

See Part 3 of this Schedule for the definitions of these groups.

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- (3) “Group”, “parent” and “subsidiary” have the meaning given by those provisions of international accounting standards relating to the preparation of consolidated financial statements (whether or not the parent entity prepares financial statements under those standards).
- (4) Accordingly, for the purposes of this Schedule the members of the relevant group are—
- (a) the parent entity, and
  - (b) any other entity which, as at the end of the chargeable period, is a member of the group for the purposes of the provisions mentioned in sub-paragraph (3).
- (5) Sub-paragraphs (3) and (4) are subject to what follows.
- (6) Sub-paragraph (7) applies if—
- (a) as at the end of the chargeable period—
    - (i) the parent entity is resident in a territory outside the United Kingdom,
    - (ii) generally accepted accounting practice for entities resident in that territory is or includes US GAAP, and
    - (iii) the parent entity is a parent for the purposes of those provisions of US GAAP which relate to the preparation of consolidated financial statements (as well as being a parent for the purposes of the provisions mentioned in sub-paragraph (3)), and
  - (b) the parent entity prepares consolidated financial statements for the chargeable period under US GAAP.
- (7) The relevant group is the group for which the parent entity is the parent for the purposes of the provisions of US GAAP mentioned in sub-paragraph (6)(a)(iii) (instead of the provisions mentioned in sub-paragraph (3)) and, accordingly, for the purposes of this Schedule the members of the relevant group are—
- (a) the parent entity, and
  - (b) any other entity which, as at the end of the chargeable period, is a member of the group for the purposes of the provisions of US GAAP mentioned in sub-paragraph (6)(a)(iii).
- (8) This paragraph applies in relation to periods of account ending on or after 1 January 2011.

*Bank levy to be charged in relation to certain entities which are not members of groups*

- 5 (1) The bank levy is charged if, as at the end of a period of account (“the chargeable period”) of an entity (“the relevant entity”), the relevant entity—
- (a) is a UK resident bank, a building society or a relevant foreign bank, and
  - (b) does not fall within sub-paragraph (2) or (3).
- (2) An entity falls within this sub-paragraph if it is an entity in relation to which paragraph 4(1) applies as at the end of the chargeable period.
- (3) An entity (“A”) falls within this sub-paragraph if—
- (a) there is another entity (“B”) in relation to which paragraph 4(1) applies as at the end of the chargeable period (or in relation to which paragraph 4(1)

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would apply if B had a period of account ending at the same time as the chargeable period), and

(b) A is (or would be) a member of the relevant group.

(4) This paragraph applies in relation to periods of account ending on or after 1 January 2011.

*Steps for determining the amount of the bank levy*

6 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 4 or 5.

(2) Here are the steps to be taken to determine the amount of the bank levy.

*Step 1* In accordance with Part 4 of this Schedule, determine the amount of the chargeable equity and liabilities of the relevant group or the relevant entity (as the case may be).

*Step 2* If the amount of the chargeable equity and liabilities is not more than £20,000,000,000, the amount of the bank levy is nil and no further steps are taken. If the amount of the chargeable equity and liabilities is more than £20,000,000,000, go to Step 3.

*Step 3* Determine how much of the chargeable equity and liabilities are long term equity and liabilities and how much are short term liabilities.

*Step 4* Determine the proportion (“A%”) of the chargeable equity and liabilities which is long term equity and liabilities and the proportion (“B%”) of the chargeable equity and liabilities which is short term liabilities.

*Step 5* Reduce the amount of the long term chargeable equity and liabilities by an amount equal to A% of £20,000,000,000 and the amount of the short term chargeable liabilities by an amount equal to B% of £20,000,000,000.

*Step 6* If the chargeable period is 12 months, go straight to Step 7. If not, adjust the amount of the long term chargeable equity and liabilities and the amount of the short term chargeable liabilities as follows. Divide the amount by 365 and then multiply the result by the number of days in the chargeable period.

*Step 7* Charge the amount of the long term chargeable equity and liabilities at the rate of [<sup>F1</sup>0.065%]. Charge the amount of the short term chargeable liabilities at the rate of [<sup>F2</sup>0.130%]

(3) The bank levy is to be paid as provided for by Part 6 of this Schedule.

**Textual Amendments**

**F1** Word in Sch. 19 para. 6(2) substituted (1.1.2013 retrospective) by Finance Act 2013 (c. 29), s. 202(2)(a)(5) (with s. 202(6)-(13))

**F2** Word in Sch. 19 para. 6(2) substituted (1.1.2013 retrospective) by Finance Act 2013 (c. 29), s. 202(2)(b)(5) (with s. 202(6)-(13))

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*Special provision for chargeable periods falling wholly or partly before 1 January [F<sup>3</sup>2013]*

**Textual Amendments**

**F3** Word in Sch. 19 para. 7 crossheading substituted (1.1.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 34 paras. 6\(2\)](#), 7 (with [Sch. 34 para. 12](#))

7 [F<sup>4</sup>(1) Paragraph 6(2) applies subject to this paragraph if some or all of the chargeable period falls before 1 January 2013.

(2) For Step 7 there is substituted—

“*Step 7* Determine the proportion (“P%”) (if any) of the chargeable period which falls within each of the periods (“rate periods”) specified in column 1 of the following table. In relation to each rate period—

- (a) charge P% of the amount of the long term chargeable equity and liabilities at the rate specified, in relation to the rate period concerned, in the second column of the table, and
- (b) charge P% of the amount of the short term chargeable liabilities at the rate specified, in relation to the rate period concerned, in the third column of the table.

Add together the results for each rate period in which some or all of the chargeable period falls to give the amount of the bank levy.

<i>Rate period</i>	<i>Rate for long term chargeable equity and liabilities</i>	<i>Rate for short term chargeable liabilities</i>
1 January 2011 to 28 February 2011	0.025%	0.05%
1 March 2011 to 30 April 2011	0.05%	0.1%
1 May 2011 to 31 December 2011	0.0375%	0.075%
1 January 2012 to 31 December 2012	0.044%	0.088%
Any time on or after 1 January 2013	[F <sup>5</sup> 0.065%]	[F <sup>6</sup> 0.130%]]

(3) If the chargeable period starts before 1 January 2011, for the purposes of Step 6 and Step 7 (as substituted by sub-paragraph (2)) the part of the period falling before 1 January 2011 is ignored and, accordingly, the period is treated as having started on 1 January 2011.

**Textual Amendments**

**F4** Sch. 19 para. 7(1)(2) substituted (1.1.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 34 paras. 6\(1\)](#), 7 (with [Sch. 34 para. 12](#))

**F5** Word in Sch. 19 para. 7(2) substituted (1.1.2013 retrospective) by [Finance Act 2013 \(c. 29\)](#), [s. 202\(3\)\(a\)\(5\)](#) (with [s. 202\(6\)-\(13\)](#))

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- F6** Word in Sch. 19 para. 7(2) substituted (1.1.2013 retrospective) by [Finance Act 2013 \(c. 29\)](#) , [s. 202\(3\)\(b\)\(5\)](#) (with [s. 202\(6\)-\(13\)](#) )

### PART 3

#### GROUPS COVERED BY THE BANK LEVY

*Definitions of “UK banking group”, “building society group”,  
“foreign banking group” and “relevant non-banking group”*

- 8 The relevant group is a “UK banking group” if—
- (a) the group is a banking group (see paragraph 12), and
  - (b) the parent entity is a UK resident entity.
- 9 The relevant group is a “building society group” if the parent entity is a building society.
- 10 The relevant group is a “foreign banking group” if—
- (a) the group is a banking group (see paragraph 12), and
  - (b) the parent entity is a non-UK resident entity.
- 11 The relevant group is a “relevant non-banking group” if—
- (a) the members of the group include at least one UK resident bank or relevant foreign bank, and
  - (b) the group is neither a banking group nor a building society group.

*Definition of “banking group”*

- 12 (1) The relevant group is a “banking group” if—
- (a) condition A, B, C or D is met, and
  - (b) the exempt activities condition is not met (see paragraph 13).
- (2) Condition A is that the parent entity is a UK resident bank (see paragraph 80) or a relevant foreign bank (see paragraph 78).
- (3) Condition B is that—
- (a) the parent entity is an investment entity, and
  - (b) the members of the relevant group include at least one UK resident bank to which sub-paragraph (6) applies or relevant foreign bank to which that sub-paragraph applies.
- (4) Condition C is that—
- (a) the parent entity is a non-UK resident entity to which sub-paragraph (8) applies, and
  - (b) the members of the relevant group include at least one UK resident bank or relevant foreign bank.
- (5) Condition D is that—
- (a) the parent entity is an investment entity,
  - (b) the members of the relevant group include at least one non-UK resident entity to which both sub-paragraphs (6) and (8) apply, and

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- (c) those members also include at least one UK resident bank or relevant foreign bank.
- (6) This sub-paragraph applies to an entity (“E”) if, for the purposes of the applicable accounting provisions, E is not a subsidiary of any other entity apart from investment entities.
- (7) “The applicable accounting provisions” means—
- (a) the provisions mentioned in paragraph 4(3), or
  - (b) if the members of the relevant group are determined under paragraph 4(7), the provisions of US GAAP mentioned in paragraph 4(6)(a)(iii).
- (8) This sub-paragraph applies to an entity (“F”) if—
- (a) F would be a UK resident bank if—
    - (i) F were a UK resident entity,
    - (ii) it carried on its activities in the United Kingdom,
    - (iii) where it would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities in the United Kingdom, it were an authorised person with permission to carry on those activities, and
    - (iv) where those activities consist wholly or mainly of any of the relevant activities described in the provisions mentioned in paragraph 79(b) to (f), as a result of carrying on those activities and having such permission it would be a BIPRU 730k firm and a full scope BIPRU investment firm, or
  - (b) F is a member of a partnership which is a non-UK resident entity and F would be a UK resident bank if—
    - (i) both F and the partnership were UK resident entities,
    - (ii) the partnership carried on its activities in the United Kingdom,
    - (iii) where the partnership would be required to be an authorised person for the purposes of FISMA 2000 in order to carry on those activities in the United Kingdom, the partnership were an authorised person with permission to carry on those activities, and
    - (iv) where those activities consist wholly or mainly of any of the relevant activities described in the provisions mentioned in paragraph 79(b) to (f), as a result of carrying on those activities and having such permission the partnership would be a BIPRU 730k firm and a full scope BIPRU investment firm.
- (9) “Investment entity”—
- (a) means an entity the business of which consists wholly or mainly of, and the principal part of the income of which is derived from, the making of investments, and
  - (b) also includes any savings bank or other bank for savings.
- 13 (1) The exempt activities condition is met for the purposes of paragraph 12(1)(b) if—
- (a) at least 90% of the trading income of the relevant group for the chargeable period derives from exempt activities, or
  - (b) at least 50% of the trading income of the relevant group for the chargeable period derives from non-financial trading activities.
- (2) For this purpose, the trading income of the relevant group for the chargeable period—

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- (a) consists of the items mentioned in sub-paragraph (3), and
  - (b) is to be determined by reference to—
    - (i) the amounts recognised in the group's consolidated financial statements for the chargeable period as prepared under the applicable accounting standards, or
    - (ii) if no such financial statements are prepared, the amounts which would have been so recognised had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.
- (3) The items referred to in sub-paragraph (2)(a) are—
- (a) the group's gross income for the chargeable period arising from its activities (other than net-basis activities) without taking account of any deductions (whether for expenses or otherwise), and
  - (b) the group's net income for the chargeable period arising from its net-basis activities.
- (4) In this paragraph—
- “ activities ” includes buying, holding, managing and selling assets;
  - “ the applicable accounting standards ” means—
    - (a) international accounting standards, or
    - (b) US GAAP if the members of the relevant group are determined under paragraph 4(7);
  - “ dealing on own account ” has the same meaning as in Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (see Article 4(1)(6));
  - “ deposit ” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ( S.I. 2001/544) but ignoring the exclusions in articles 6 to 9AB;
  - “ exempt activities ” means—
    - (a) insurance activities, asset management activities and related activities, and
    - (b) non-financial trading activities;
  - “ financial trading entity ” means an entity which—
    - (a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
    - (b) is not UK resident, but if it were and it carried on its activities in the United Kingdom, would be required to be an authorised person, or
    - (c) is not within paragraph (a) or (b) but carries on a trade consisting wholly or partly in dealing in securities;
  - “ insurance activities ” means—
    - (a) the effecting or carrying out of contracts of insurance by a regulated insurer, and
    - (b) investment business that arises directly from activities falling within paragraph (a);
  - “ lending activities ” means—
    - (a) acceptance of deposits or other repayable funds,

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- (b) lending of money, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions (including forfeiting),
- (c) finance leasing (as lessor),
- (d) issuing and administering means of payment,
- (e) provision of guarantees or commitments to provide money,
- (f) money transmission services,
- (g) provision of alternative finance arrangements, and
- (h) other activities carried on in connection with activities falling within any of paragraphs (a) to (g);

“net-basis activities” means activities normally reported on a net basis in consolidated financial statements prepared under the applicable accounting standards;

“non-financial trading activities” means activities carried on by an entity which is not a financial trading entity, other than—

- (a) lending activities, and
- (b) dealing on own account, with the exception of any hedging transactions in relation to activities which (disregarding this exception) are non-financial trading activities;

“regulated insurer”, in relation to the relevant group, means a member of the group which—

- (a) is authorised under the law of any territory to carry on insurance business, or
- (b) is a member of a body or organisation which is so authorised;

“related activities” means—

- (a) activities which are ancillary to insurance activities or asset management activities of any entity which is a member of the relevant group (whether or not the entity carrying on the insurance activities or asset management activities), and
- (b) activities which would not be carried on but for such insurance activities or asset management activities being carried on,

but does not include dealing on own account;

“securities” includes—

- (a) shares,
- (b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of that Act, and
- (c) in the case of a company with no share capital, interests in the company possessed by members of the company.

## PART 4

### CHARGEABLE EQUITY AND LIABILITIES

#### *Definition of “assets”, “equity” and “liabilities”*

- 14 (1) For the purposes of this Schedule, “assets”, “equity” and “liabilities” have the same meaning as they have for the purposes of international accounting standards.



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- (2) Sub-paragraph (1) is without prejudice to any provision of this Schedule which requires anything to be determined by reference to amounts which are recognised, or amounts which would have been recognised, in consolidated financial statements or financial statements prepared under UK GAAP.

*Chargeable equity and liabilities of a UK banking group or a building society group*

- 15 (1) This paragraph applies if the relevant group is a UK banking group or a building society group.
- (2) To determine the amount of the relevant group's chargeable equity and liabilities—
- (a) determine the amount of the group's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 16 and 44 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by—
    - (i) the amount of the group's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 16(4) applies, and
    - (ii) where sub-paragraph (4) applies, the amount determined under that sub-paragraph.
- (3) Sub-paragraph (4) applies where—
- (a) as at the end of the chargeable period, the assets of the group include a financial asset in respect of an advance of cash made by a member of the group,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (2)(b), is an asset to which paragraph 16(4) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by that member which would form part of the group's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the group.
- (4) The amount within sub-paragraph (2)(c)(ii) is—
- (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (5) For the purposes of this paragraph and paragraph 16 the relevant group's assets, equity and liabilities are to be determined by reference to—
- (a) the amounts recognised in the group's consolidated financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so recognised had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.
- (6) In reducing the amount of any equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.

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- 16 (1) This paragraph applies for the purposes of paragraph 15(2) if—
- (a) a member (“M”) of the relevant group has liabilities to an entity (“N”) which is not a member of the group <sup>F7</sup> . . . (“M’s liabilities”),
  - <sup>F8</sup>(b) M, or another member of the relevant group, recognises, as assets, amounts due from N or another entity which is not a member of the group (“N’s liabilities”),]
  - (c) there is in place an agreement which makes provision for there to be a single net settlement of all M’s liabilities, and liabilities of other members of the group to N or another entity which is not a member of the group, (so far as covered by the provision) and all N’s liabilities (so far as covered by the provision) if the netting event occurs, and
  - (d) the provision mentioned in paragraph (c) is legally effective and enforceable.
- (2) For the purposes of sub-paragraph (1)—
- (a) “agreement ” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  - <sup>F9</sup>(b) references to amounts due from N or another entity which is not a member of the relevant group include securities provided by M, or another member of the relevant group, to N or another entity which is not a member of the relevant group as collateral, but only where M or another member of the relevant group recognises those securities in its balance sheet or statement of financial position, and]
  - (c) <sup>F10</sup> . . . . .
  - (d) “the netting event occurs” if the insolvency or bankruptcy of—
    - (i) M, or another member of the relevant group which has <sup>F11</sup> . . . a liability covered by the provision mentioned in sub-paragraph (1) (c), or
    - (ii) N, or another entity which is not a member of the group and which has such a liability,
 gives rise to the termination of any arrangements under which such a liability arises.
- <sup>F12</sup>Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.]
- (3) <sup>F13</sup> . . . . .
- (4) The amount of M’s net settlement liabilities is to be reduced (but not below nil) by the amount of M’s net settlement assets.
- (5) “M’s net settlement liabilities ” means M’s liabilities so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
  - (b) are not excluded liabilities.
- (6) “M’s net settlement assets ” means the assets of M, or of another member of the relevant group, so far as corresponding to N’s net settlement liabilities.
- (7) But if this paragraph applies in relation to more than one member of the relevant group, no part of an asset may be included in the net settlement assets of more than one such member.

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- (8) “N's net settlement liabilities ” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph (1)(c).
- (9) If M's net settlement liabilities exceed M's net settlement assets, and a proportion (A %) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (4)—
- (a) the long term liabilities are reduced by A% of M's net settlement assets, and
  - (b) the short term liabilities are reduced by B% of those assets.

#### Textual Amendments

- F7** Words in Sch. 19 para. 16(1)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(2)(a)**
- F8** Sch. 19 para. 16(1)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(2)(b)**
- F9** Sch. 19 para. 16(2)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(3)(a)**
- F10** Sch. 19 para. 16(2)(c) and following word omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(3)(b)**
- F11** Words in Sch. 19 para. 16(2)(d)(i) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(3)(c)**
- F12** Words after Sch. 19 para. 16(2)(d) inserted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(3)(d)**
- F13** Sch. 19 para. 16(3) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **3(4)**

#### *Chargeable equity and liabilities of a foreign banking group*

- 17 (1) This paragraph applies if the relevant group is a foreign banking group.
- (2) The amount of the chargeable equity and liabilities of the relevant group is the sum of all type A, type B, type C and type D equity and liabilities.
- (3) Type A equity and liabilities are the chargeable equity and liabilities of any relevant UK sub-group.
- (4) “UK sub-group ” means a group of entities—
- (a) which is a group for the purposes of those provisions of international accounting standards or UK GAAP which relate to the preparation of consolidated financial statements,
  - (b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is a UK resident entity, and
  - (c) the members of which for the purposes of those provisions are all members of the relevant group.

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- (5) A UK sub-group is “relevant” if—
- (a) consolidated financial statements for the chargeable period are prepared for it under international accounting standards or UK GAAP, and
  - (b) its members are not members of any larger UK sub-group for which such financial statements are prepared.
- (6) To determine the amount of the chargeable equity and liabilities of a relevant UK sub-group—
- (a) determine the amount of the sub-group's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 18 and 44 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by—
    - (i) the amount of the sub-group's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 18(12) applies, and
    - (ii) where sub-paragraph (8) applies, the amount determined under that sub-paragraph.
- (7) Sub-paragraph (8) applies where—
- (a) as at the end of the chargeable period, the assets of the relevant UK sub-group include a financial asset in respect of an advance of cash made by a member of that sub-group,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (6)(b), is an asset to which paragraph 18(12) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by that member which would form part of the sub-group's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the sub-group.
- (8) The amount within sub-paragraph (6)(c)(ii) is—
- (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (9) For the purposes of this paragraph and paragraph 18, the assets, equity and liabilities of a relevant UK sub-group are to be determined by reference to the amounts recognised in its consolidated financial statements for the chargeable period.
- (10) Type B equity and liabilities are the chargeable equity and liabilities of any UK resident entity which—
- (a) is a member of the relevant group, but
  - (b) is not a member of a relevant UK sub-group.
- (11) Type C equity and liabilities are the chargeable equity and liabilities of any non-UK resident entity which—
- (a) is a member of the relevant group, and

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- (b) is a member of a UK sub-group but is not a member of a relevant UK sub-group.
- (12) To determine the amount of the chargeable equity and liabilities of an entity covered by sub-paragraph (10) or (11)—
- (a) determine the amount of the entity's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 18 and 44 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by—
    - (i) the amount of the entity's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 18(12) applies, and
    - (ii) where sub-paragraph (14) applies, the amount determined under that sub-paragraph.
- (13) Sub-paragraph (14) applies where—
- (a) as at the end of the chargeable period, the assets of the entity include a financial asset in respect of an advance of cash made by the entity,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (12)(b), is an asset to which paragraph 18(12) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by that entity which would form part of the entity's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the entity.
- (14) The amount within sub-paragraph (12)(c)(ii) is—
- (a) the amount of the financial asset as at the end of the chargeable period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (15) For the purposes of this paragraph and paragraph 18 the assets, equity and liabilities of an entity covered by sub-paragraph (10) or (11) are to be determined by reference to—
- (a) the amounts recognised in the entity's financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared—
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the entity prepares its financial statements under.
- (16) In reducing the amount of any equity or liabilities under sub-paragraph (6)(c) or (12) (c), long term equity and liabilities are to be reduced before short term liabilities.
- (17) Type D equity and liabilities are the UK allocated equity and liabilities (see paragraph 24) as at the end of the chargeable period of any relevant foreign bank which—
- (a) is a member of the relevant group, but

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- (b) is not a member of a UK sub-group.
- (18) If—
- (a) the amount of the equity and liabilities, as at the end of the chargeable period, of a relevant UK sub-group or an entity covered by sub-paragraph (10) or (11), or
  - (b) the amount of the UK allocated equity and liabilities, as at the end of that period, of a relevant foreign bank covered by sub-paragraph (17),
- is less than £50,000,000, the equity and liabilities, or UK allocated equity and liabilities, may be ignored for the purposes of this paragraph and paragraph 18.
- (19) But the total amount of equity and liabilities which may be ignored under sub-paragraph (18) may not exceed £200,000,000.
- 18 (1) This paragraph applies for the purposes of paragraph 17(6) and (12).
- (2) In this paragraph “relevant member” means—
- (a) a relevant UK sub-group,
  - (b) a UK resident entity covered by paragraph 17(10), or
  - (c) a non-UK resident entity covered by paragraph 17(11).
- (3) Sub-paragraph (4) applies if the members of a relevant UK sub-group are also members of one or more larger UK sub-groups.
- (4) Any equity of the relevant UK sub-group is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the larger or largest UK sub-group—
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the larger or largest UK sub-group prepares its financial statements under UK GAAP.
- (5) Sub-paragraph (6) applies if a relevant member within sub-paragraph (2)(b) or (c) is a member of one or more UK sub-groups.
- (6) Any equity of the relevant member is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the UK sub-group or the largest UK sub-group—
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the UK sub-group or the largest UK sub-group prepares its financial statements under UK GAAP.
- (7) The following liabilities of a relevant member are to be left out—
- (a) liabilities to other relevant members, and
  - (b) liabilities to a relevant foreign bank covered by paragraph 17(17) so far as the bank's assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1).
- (8) Sub-paragraph (12) applies if—

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- (a) an entity (“M”) within sub-paragraph (9) has liabilities to another entity (“N”) not within that sub-paragraph <sup>F14</sup> . . . (“M’s liabilities”),
  - [<sup>F15</sup>(b) M, or another entity within sub-paragraph (9), recognises, as assets, amounts due from N or another entity not within that sub-paragraph (“N’s liabilities”),]
  - (c) there is in place an agreement which makes provision for there to be a single net settlement of all M’s liabilities, and liabilities of other entities within sub-paragraph (9) to N or another entity which is not within that sub-paragraph, (so far as covered by the provision) and all N’s liabilities (so far as covered by the provision) if the netting event occurs, and
  - (d) the provision mentioned in paragraph (c) is legally effective and enforceable.
- (9) An entity is within this sub-paragraph if it is—
- (a) a member of a relevant UK sub-group, or
  - (b) a relevant member within sub-paragraph (2)(b) or (c).
- (10) For the purposes of sub-paragraph (8)—
- (a) “ agreement ” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  - (b) if N is a relevant foreign bank covered by paragraph 17(17), liabilities of M to N are to be ignored so far as [<sup>F16</sup>N recognises assets in respect of those liabilities as] assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),
  - [<sup>F17</sup>(c) references to amounts due from N or another entity not within sub-paragraph (9) include securities provided by M, or another entity within that sub-paragraph, to N or another entity not within sub-paragraph (9) as collateral, but only where M or that other entity within that sub-paragraph recognises those securities in its balance sheet or statement of financial position, and]
  - (d) <sup>F18</sup> . . . . .
  - (e) “the netting event occurs” if the insolvency or bankruptcy of—
    - (i) M, or another entity within sub-paragraph (9) which has <sup>F19</sup> . . . a liability covered by the provision mentioned in sub-paragraph (8) (c), or
    - (ii) N, or another entity not within sub-paragraph (9) which has such a liability,gives rise to the termination of any arrangements under which such a liability arises.
- [<sup>F20</sup>Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.]
- (11) <sup>F21</sup> . . . . .
- (12) The amount of M’s net settlement liabilities is to be reduced (but not below nil) by the amount of M’s net settlement assets.
- (13) “ M’s net settlement liabilities ” means M’s liabilities so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (8)(c), and
  - (b) are not excluded liabilities.

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- (14) “ M's net settlement assets ” means the assets of M, or of another entity within sub-paragraph (9), so far as corresponding to N's net settlement liabilities.
- (15) But—
- (a) if N's net settlement liabilities include liabilities of a relevant foreign bank covered by paragraph 17(17), X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (14), and
  - (b) if sub-paragraph (12) applies in relation to more than one entity within sub-paragraph (9), no part of an asset may be included in the net settlement assets of more than one such entity.
- (16) “ N's net settlement liabilities ” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph (8)(c).
- (17) If M's net settlement liabilities exceed M's net settlement assets, and a proportion (A %) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (12)—
- (a) the long term liabilities are reduced by A% of M's net settlement assets, and
  - (b) the short term liabilities are reduced by B% of those assets.

#### Textual Amendments

- F14** Words in Sch. 19 para. 18(8)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(2)(a)**
- F15** Sch. 19 para. 18(8)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(2)(b)**
- F16** Words in Sch. 19 para. 18(10)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(3)(a)**
- F17** Sch. 19 para. 18(10)(c) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(3)(b)**
- F18** Sch. 19 para. 18(10)(d) and following word omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(3)(c)**
- F19** Words in Sch. 19 para. 18(10)(e)(i) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(3)(d)**
- F20** Words after Sch. 19 para. 18(10)(e) inserted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(3)(e)**
- F21** Sch. 19 para. 18(11) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **4(4)**

#### *Chargeable equity and liabilities of a relevant non-banking group*

- 19 (1) This paragraph applies if the relevant group is a relevant non-banking group.



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- (2) The amount of the chargeable equity and liabilities of the relevant group is the sum of all type A, type B, type C and type D equity and liabilities.
- (3) Type A equity and liabilities are the chargeable equity and liabilities of any relevant UK banking sub-group.
- (4) “UK banking sub-group” means a group of entities—
  - (a) which is a group for the purposes of those provisions of international accounting standards or UK GAAP which relate to the preparation of consolidated financial statements,
  - (b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is a UK resident bank, and
  - (c) the members of which are all members of the relevant group.
- (5) A UK banking sub-group is “relevant” if—
  - (a) consolidated financial statements for the chargeable period are prepared for it under international accounting standards or UK GAAP, and
  - (b) its members are not members of any larger UK banking sub-group for which such financial statements are prepared.
- (6) To determine the amount of the chargeable equity and liabilities of a relevant UK banking sub-group—
  - (a) determine the amount of the sub-group's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust the amount in accordance with paragraphs 20 and 44 (so far as applicable), and
  - (c) finally, reduce the amount (but not below nil) by—
    - (i) the amount of the sub-group's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 20(12) applies, and
    - (ii) where sub-paragraph (8) applies, the amount determined under that sub-paragraph.
- (7) Sub-paragraph (8) applies where—
  - (a) as at the end of the chargeable period, the assets of the relevant UK banking sub-group include a financial asset in respect of an advance of cash made by a member of the sub-group,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (6)(b), is an asset to which paragraph 20(12) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by that member which would form part of the sub-group's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the sub-group.
- (8) The amount within sub-paragraph (6)(c)(ii) is—
  - (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.

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- (9) For the purposes of this paragraph and paragraph 20 the assets, equity and liabilities of a relevant UK banking sub-group are to be determined by reference to the amounts recognised in its consolidated financial statements for the chargeable period.
- (10) Type B equity and liabilities are the chargeable equity and liabilities of any UK resident bank which—
- (a) is a member of the relevant group, but
  - (b) is not a member of a relevant UK banking sub-group.
- (11) Type C equity and liabilities are the chargeable equity and liabilities of any entity (apart from a UK resident bank) which—
- (a) is a member of the relevant group, and
  - (b) is a member of a UK banking sub-group but is not a member of a relevant UK banking sub-group.
- (12) To determine the amount of the chargeable equity and liabilities of an entity covered by sub-paragraph (10) or (11)—
- (a) determine the amount of the entity's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust the amount in accordance with paragraphs 20 and 44 (so far as applicable), and
  - (c) finally, reduce the amount (but not below nil) by—
    - (i) the amount of the entity's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 20(12) applies, and
    - (ii) where sub-paragraph (14) applies, the amount determined under that sub-paragraph.
- (13) Sub-paragraph (14) applies where—
- (a) as at the end of the chargeable period, the assets of the entity include a financial asset in respect of an advance of cash made by the entity,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (12)(b), is an asset to which paragraph 20(12) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by that entity which would form part of the entity's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the entity.
- (14) The amount within sub-paragraph (12)(c)(ii) is—
- (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (15) For the purposes of this paragraph and paragraph 20 the assets, equity and liabilities of an entity covered by sub-paragraph (10) or (11) are to be determined by reference to—
- (a) the amounts recognised in the entity's financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or

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- (b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared—
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the entity prepares its financial statements under.
- (16) In reducing the amount of any equity or liabilities under sub-paragraph (6)(c) or (12)(c), long term equity and liabilities are to be reduced before short term liabilities.
- (17) Type D equity and liabilities are the UK allocated equity and liabilities (see paragraph 24) as at the end of the chargeable period of any relevant foreign bank which—
  - (a) is a member of the relevant group, but
  - (b) is not a member of a UK banking sub-group.
- (18) If—
  - (a) the amount of the equity and liabilities, as at the end of the chargeable period, of a relevant UK banking sub-group or an entity covered by sub-paragraph (10) or (11), or
  - (b) the amount of the UK allocated equity and liabilities, as at the end of that period, of a relevant foreign bank covered by sub-paragraph (17),  
is less than £50,000,000, the equity and liabilities, or UK allocated equity and liabilities, may be ignored for the purposes of this paragraph and paragraph 20.
- (19) But the total amount of equity and liabilities which may be ignored under sub-paragraph (18) may not exceed £200,000,000.
- 20 (1) This paragraph applies for the purposes of paragraph 19(6) and (12).
- (2) In this paragraph “ relevant member ” means—
  - (a) a relevant UK banking sub-group,
  - (b) a UK resident bank covered by paragraph 19(10), or
  - (c) an entity covered by paragraph 19(11).
- (3) Sub-paragraph (4) applies if the members of a relevant UK banking sub-group are also members of one or more larger UK banking sub-groups.
- (4) Any equity of the relevant UK banking sub-group is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the larger or largest UK banking sub-group—
  - (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the larger or largest UK banking sub-group prepares its financial statements under UK GAAP.
- (5) Sub-paragraph (6) applies if a relevant member within sub-paragraph (2)(b) or (c) is a member of one or more UK banking sub-groups.
- (6) Any equity of the relevant member is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the UK banking sub-group or the largest UK banking sub-group—
  - (a) under international accounting standards, or

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- (b) under UK GAAP if the entity which is the parent or parent undertaking for the UK banking sub-group or the largest UK banking sub-group prepares its financial statements under UK GAAP.
- (7) The following liabilities of a relevant member are to be left out—
- (a) liabilities to other relevant members, and
  - (b) liabilities to a relevant foreign bank covered by paragraph 19(17) so far as the bank's assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1).
- (8) Sub-paragraph (12) applies if—
- (a) an entity (“M”) within sub-paragraph (9) has liabilities to another entity (“N”) not within that sub-paragraph <sup>F22</sup> . . . (“M's liabilities”),
  - [<sup>F23</sup>(b) M, or another entity within sub-paragraph (9), recognises, as assets, amounts due from N or another entity not within that sub-paragraph (“N's liabilities”),]
  - (c) there is in place an agreement which makes provision for there to be a single net settlement of all M's liabilities, and liabilities of other entities within sub-paragraph (9) to N or another entity which is not within that sub-paragraph, (so far as covered by the provision) and all N's liabilities (so far as covered by the provision) if the netting event occurs, and
  - (d) the provision mentioned in paragraph (c) is legally effective and enforceable.
- (9) An entity is within this sub-paragraph if it is—
- (a) a member of a relevant UK banking sub-group, or
  - (b) a relevant member within sub-paragraph (2)(b) or (c).
- (10) For the purposes of sub-paragraph (8)—
- (a) “ agreement ” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  - (b) if N is a relevant foreign bank covered by paragraph 19(17), liabilities of M to N are to be ignored so far as [<sup>F24</sup>N recognises assets in respect of those liabilities as] assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),
  - [<sup>F25</sup>(c) references to amounts due from N or another entity not within sub-paragraph (9) include securities provided by M or another entity within that sub-paragraph to N or another entity not within sub-paragraph (9) as collateral, but only where M or that other entity within that sub-paragraph recognises those securities in its balance sheet or statement of financial position, and]
  - (d) <sup>F26</sup> .....
  - (e) “the netting event occurs” if the insolvency or bankruptcy of—
    - (i) M, or another entity within sub-paragraph (9) which has <sup>F27</sup> . . . a liability covered by the provision mentioned in sub-paragraph (8) (c), or
    - (ii) N, or another entity not within sub-paragraph (9) which has such a liability,
 gives rise to the termination of any arrangements under which such a liability arises.

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[<sup>F28</sup>Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.]

- (11) <sup>F29</sup> .....
- (12) The amount of M's net settlement liabilities is to be reduced (but not below nil) by the amount of M's net settlement assets.
- (13) “ M's net settlement liabilities ” means M's liabilities so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (8)(c), and
  - (b) are not excluded liabilities.
- (14) “ M's net settlement assets ” means the assets of M, or of another entity within sub-paragraph (9), so far as corresponding to N's net settlement liabilities.
- (15) But—
- (a) if N's net settlement liabilities include liabilities of a relevant foreign bank covered by paragraph 19(17), X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (14), and
  - (b) if sub-paragraph (12) applies in relation to more than one entity within sub-paragraph (9), no part of an asset may be included in the net settlement assets of more than one such entity.
- (16) “ N's net settlement liabilities ” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph (8)(c).
- (17) If M's net settlement liabilities exceed M's net settlement assets, and a proportion (A %) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (12)—
- (a) the long term liabilities are reduced by A% of M's net settlement assets, and
  - (b) the short term liabilities are reduced by B% of those assets.

#### Textual Amendments

- F22** Words in Sch. 19 para. 20(8)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **5(2)(a)**
- F23** Sch. 19 para. 20(8)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **5(2)(b)**
- F24** Words in Sch. 19 para. 20(10)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **5(3)(a)**
- F25** Sch. 19 para. 20(10)(c) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **5(3)(b)**
- F26** Sch. 19 para. 20(10)(d) and following word omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **5(3)(c)**

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- F27** Words in Sch. 19 para. 20(10)(e)(i) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **5(3)(d)**
- F28** Words after Sch. 19 para. 20(10)(e) inserted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **5(3)(e)**
- F29** Sch. 19 para. 20(11) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **5(4)**

*Chargeable equity and liabilities of UK resident banks  
and building societies which are not members of groups*

- 21 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 5 and the relevant entity is a UK resident bank or a building society.
- (2) To determine the amount of the relevant entity's chargeable equity and liabilities—
- (a) determine the amount of the entity's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 22 and 44 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by—
    - (i) the amount of the entity's high quality liquid assets as at the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 22(4) applies, and
    - (ii) where sub-paragraph (4) applies, the amount determined under that sub-paragraph.
- (3) Sub-paragraph (4) applies where—
- (a) as at the end of the chargeable period, the assets of the relevant entity include a financial asset in respect of an advance of cash made by the entity,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (2)(b), is an asset to which paragraph 22(4) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by the entity which would form part of the entity's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the entity.
- (4) The amount within sub-paragraph (2)(c)(ii) is—
- (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (5) For the purposes of this paragraph and paragraph 22 the relevant entity's assets, equity and liabilities are to be determined by reference to the amounts recognised in the entity's financial statements for the chargeable period as prepared under international accounting standards or UK GAAP.

*Status: Point in time view as at 01/01/2013.*

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- (6) In reducing the amount of any equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.
- 22 (1) This paragraph applies for the purposes of paragraph 21(2) if—
- (a) the relevant entity has liabilities to another entity<sup>F30</sup> . . . (“the relevant entity's liabilities”),
  - [<sup>F31</sup>(b) the relevant entity recognises, as assets, amounts due from that other entity (“N”) to the relevant entity (“N's liabilities”),]
  - (c) there is in place an agreement between the relevant entity and N which makes provision for there to be a single net settlement of all the relevant entity's liabilities (so far as covered by the provision) and all N's liabilities (so far as covered by the provision) if the netting event occurs, and
  - (d) the provision mentioned in paragraph (c) is legally effective and enforceable.
- (2) For the purposes of sub-paragraph (1)—
- (a) “ agreement ” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  - [<sup>F32</sup>(b) references to amounts due from N include securities provided by the relevant entity to N as collateral, but only where the relevant entity recognises those securities in its balance sheet or statement of financial position, and]
  - (c) <sup>F33</sup> . . . . .
  - (d) “the netting event occurs” if the insolvency or bankruptcy of the relevant entity or N gives rise to the termination of any arrangements under which any liability covered by the provisions mentioned in sub-paragraph (1)(c) arises.
- [<sup>F34</sup>Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.]
- (3) <sup>F35</sup> . . . . .
- (4) The amount of the relevant entity's net settlement liabilities is to be reduced (but not below nil) by the amount of the relevant entity's net settlement assets.
- (5) The relevant entity's “net settlement liabilities” are the relevant entity's liabilities so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
  - (b) are not excluded liabilities.
- (6) The relevant entity's “net settlement assets” are its assets so far as corresponding to N's net settlement liabilities.
- (7) “ N's net settlement liabilities ” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph (1)(c).
- (8) If the relevant entity's net settlement liabilities exceed the entity's net settlement assets, and a proportion (A%) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (4) —
- (a) the long term liabilities are reduced by A% of the entity's net settlement assets, and
  - (b) the short term liabilities are reduced by B% of those assets.

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### Textual Amendments

- F30** Words in Sch. 19 para. 22(1)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(2)(a)**
- F31** Sch. 19 para. 22(1)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(2)(b)**
- F32** Sch. 19 para. 22(2)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(3)(a)**
- F33** Sch. 19 para. 22(2)(c) and following word omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(3)(b)**
- F34** Words after Sch. 19 para. 22(2)(d) inserted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(3)(c)**
- F35** Sch. 19 para. 22(3) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), **6(4)**

### *Chargeable equity and liabilities of relevant foreign banks which are not members of groups*

- 23 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 5 and the relevant entity is a relevant foreign bank.
- (2) The chargeable equity and liabilities of the relevant entity is the amount of its UK allocated equity and liabilities (see paragraph 24) as at the end of the chargeable period.

### *Definition of “UK allocated equity and liabilities”*

- 24 (1) Take Steps 1 to 4 to determine the amount of the UK allocated equity and liabilities of a relevant foreign bank as at the end of the chargeable period. Take Steps 5 and 6 to determine how much of that amount is to be treated as long term equity and liabilities and how much as short term liabilities for the purposes of Step 3 in paragraph 6(2).
- Step 1* Determine the amount (“A”) of the bank's assets as at the end of the chargeable period (subject to any adjustment under paragraph 25(5)).
- Step 2* In accordance with paragraph 26, determine the amount (“B”) of the assets, as at the end of the chargeable period, of the permanent establishment through which the bank carries on a trade in the United Kingdom (subject to any adjustment under paragraph 25(6)). The proportion which B is of A is “X%”.
- Step 3* In accordance with paragraph 27, determine the amount (“C”) of the bank's chargeable equity and liabilities.
- Step 4* The amount of the UK allocated equity and liabilities is X% of C.
- Step 5* Determine the proportion (“Y%”) of C which is long term equity and liabilities.
- Step 6* For the purposes of Step 3 in paragraph 6(2), treat Y% of the amount of the UK allocated equity and liabilities as long term equity and liabilities and the rest as short term liabilities.



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- (2) For the purposes of this paragraph and paragraphs 25 to 27, assets, equity and liabilities of a relevant foreign bank or the permanent establishment through which it carries on a trade in the United Kingdom are to be determined by reference to—
- (a) the amounts recognised in the bank's financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared—
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the bank prepares its financial statements under.
- 25 (1) This paragraph applies if—
- (a) the relevant foreign bank has liabilities to another entity <sup>F36</sup> . . . (subject to sub-paragraph (2)) <sup>F37</sup> . . . (“the bank's liabilities”),
  - <sup>F38</sup>(b) the bank recognises, as assets, amounts due from that other entity (“N”) to the bank (“N's liabilities”),]
  - (c) there is in place an agreement between the bank and N which makes provision for there to be a single net settlement of all the bank's liabilities (so far as covered by the provision) and all N's liabilities (so far as covered by the provision) if the netting event occurs, and
  - (d) the provision mentioned in paragraph (c) is legally effective and enforceable.
- (2) If the UK allocated equity and liabilities of the bank are being determined for the purposes of paragraph 17(17) or 19(17), this paragraph does not apply if N is—
- (a) an entity within paragraph 18(9) or 20(9) (as the case may be), or
  - (b) another relevant foreign bank covered by paragraph 17(17) or 19(17) (as the case may be).
- (3) For the purposes of sub-paragraph (1)—
- (a) “ agreement ” includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  - <sup>F39</sup>(b) references to amounts due from N include securities provided by the relevant foreign bank to N as collateral, but only where the bank recognises those securities in its balance sheet or statement of financial position, and]
  - (c) <sup>F40</sup> . . . . .
  - (d) “the netting event occurs” if the insolvency or bankruptcy of the relevant foreign bank or N gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1) (c) arises.
- <sup>F41</sup>Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of this sub-paragraph as it applies for the purposes of Chapter 10 of Part 6 of that Act.]
- (4) <sup>F42</sup> . . . . .
- (5) In determining the amount of the bank's assets at Step 1 in paragraph 24(1), the amount of the bank's net settlement assets is to be reduced (but not below nil) by the amount of the bank's net settlement liabilities.
- (6) In determining the amount of the permanent establishment's assets at Step 2 in paragraph 24(1)—

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- (a) the reduction in the bank's assets under sub-paragraph (5) is to be ignored, but
  - (b) the amount of the permanent establishment's net settlement assets is to be reduced by Z%.
- (7) For this purpose, “Z%” is the proportion by which the bank's net settlement assets are reduced under sub-paragraph (5).
- (8) In determining the amount of the bank's chargeable equity and liabilities at Step 3 in paragraph 24(1), the amount of the bank's net settlement liabilities is to be reduced (but not below nil) by the amount of the bank's net settlement assets (ignoring the reduction under sub-paragraph (5)).
- (9) The bank's “net settlement liabilities” are the bank's liabilities so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
  - (b) are not excluded liabilities.
- (10) The bank's “net settlement assets” are its assets so far as corresponding to N's net settlement liabilities.
- (11) “N's net settlement liabilities ” means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph (1)(c).
- (12) The permanent establishment's “net settlement assets” are its assets so far as they are part of the bank's net settlement assets.
- (13) If the bank's net settlement liabilities exceed the bank's net settlement assets (ignoring the reduction under sub-paragraph (5)), and a proportion (A%) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (8)—
- (a) the long term liabilities are reduced by A% of the bank's net settlement assets, and
  - (b) the short term liabilities are reduced by B% of those assets.

#### Textual Amendments

- F36** Word in Sch. 19 para. 25(1)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(2)(a)(i)**
- F37** Words in Sch. 19 para. 25(1)(a) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(2)(a)(ii)**
- F38** Sch. 19 para. 25(1)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(2)(b)**
- F39** Sch. 19 para. 25(3)(b) substituted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(3)(a)**
- F40** Sch. 19 para. 25(3)(c) and following word omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(3)(b)**
- F41** Words after Sch. 19 para. 25(3)(d) inserted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#) , arts. 1(2) , **7(3)(c)**

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**F42** Sch. 19 para. 25(4) omitted (14.12.2011 with effect in relation to chargeable periods ending on or after 1.1.2011) by virtue of [The Finance Act 2011 \(Bank Levy: Amendment of Netting Agreements Provisions\) Order 2011 \(S.I. 2011/3015\)](#), arts. 1(2), 7(4)

- 26 (1) This paragraph applies for the purposes of Step 2 in paragraph 24(1).
- (2) The assets of the permanent establishment are those which it would have were it a distinct and separate enterprise which—
- (a) engaged in the same or similar activities under the same or similar conditions, and
  - (b) dealt wholly independently with the relevant foreign bank.
- (3) For this purpose, any relevant provisions of sections 21 to 28 of CTA 2009 are to be applied as they would be applied in determining profits attributable to the permanent establishment for corporation tax purposes.
- (4) But where paragraph 24(1) is being applied in determining the UK allocated equity and liabilities of a relevant foreign bank for the purposes of paragraph 17(17) or 19(17), any assets within sub-paragraph (5) are to be left out.
- (5) The assets within this sub-paragraph are any assets of the permanent establishment (as otherwise determined under this paragraph) representing an excluded loan relationship.
- (6) A loan relationship is “excluded” if—
- (a) the relevant foreign bank is the creditor,
  - (b) the debtor (“D”) is a UK resident bank or another relevant foreign bank—
    - (i) which is a member of the relevant group, and
    - (ii) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 79(a),
  - (c) the money which is the subject of the transaction giving rise to D's debt is money borrowed by the relevant foreign bank from another entity, and
  - (d) in borrowing that money the relevant foreign bank was acting as the agent or intermediary of D.
- (7) Section 302(1) of CTA 2009 (definition of “loan relationship”) applies for the purposes of sub-paragraphs (5) and (6) as it applies for corporation tax purposes.
- 27 (1) This paragraph applies for the purposes of Step 3 in paragraph 24(1).
- (2) To determine the amount of the relevant foreign bank's chargeable equity and liabilities—
- (a) determine the amount of the bank's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with sub-paragraph (5) and paragraphs 25(8) and 44 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by—
    - (i) the amount of the entity's high quality liquid assets as the end of that period, other than any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 25(8) applies, and
    - (ii) where sub-paragraph (4) applies, the amount determined under that sub-paragraph.
- (3) Sub-paragraph (4) applies where—

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- (a) as at the end of the chargeable period, the assets of the relevant foreign bank include a financial asset in respect of an advance of cash made by the bank,
  - (b) that financial asset is not an asset which, for the purposes of an adjustment under sub-paragraph (2)(b), is an asset to which paragraph 25(8) applies, and
  - (c) underlying that asset, as collateral, is an item (“the collateral”) owned by the bank which would form part of the bank's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the bank.
- (4) The amount within sub-paragraph (2)(c)(ii) is—
- (a) the amount of the financial asset as at the end of that period or, if lower, an amount equal to the fair value of the collateral as at that time, or
  - (b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.
- (5) Where paragraph 24(1) is being applied in determining the UK allocated equity and liabilities of a relevant foreign bank for the purposes of paragraph 17(17) or 19(17), the following liabilities are to be left out—
- (a) any liabilities to a relevant member as defined in paragraph 18(2) or 20(2) (as the case may be), or
  - (b) any liabilities to another relevant foreign bank covered by paragraph 17(17) or 19(17) (as the case may be) so far as the other bank's assets corresponding to the liabilities are assets of the permanent establishment through which the other bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1).
- (6) In reducing any amount of equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.

*“Excluded” equity and liabilities*

- 28 (1) Equity or liabilities are “excluded” so far as they consist of equity or liabilities which are specified to be excluded—
- (a) by any of paragraphs 29 to 39, or
  - (b) by an order made by the Treasury.
- (2) The Treasury may also by order add to, repeal or otherwise amend any of paragraphs 29 to 39.
- (3) An order under this paragraph may make consequential amendments of paragraph 76 (“long term” liabilities: non-protected deposits).
- (4) An order under this paragraph may have retrospective effect in relation to—
- (a) any chargeable period in which the order is made, or
  - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (5) Orders under this paragraph are to be made by statutory instrument.
- (6) A statutory instrument containing an order under this paragraph may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.

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- 29 (1) Liabilities representing protected deposits are excluded.
- (2) A deposit is “protected” so far as it is covered by the Financial Services Compensation Scheme under section 213 of FISMA 2000 (“the FSCS”).
- (3) A deposit is “protected” so far as it is covered by a scheme which—
- (a) operates outside the United Kingdom, and
  - (b) is comparable to the FSCS.
- (4) Sub-paragraph (5) applies for the purposes of sub-paragraphs (2) and (3) if—
- (a) the entity holding the deposit (“the relevant deposit”) is required to pay, in relation to the scheme, levies for purposes mentioned in section 213(3)(b) of FISMA 2000 or purposes comparable to those purposes,
  - (b) those levies are calculated—
    - (i) by reference to a proportion (“X%”) of the total amount of all deposits held by the entity or all deposits held by the entity within a specified class within which the relevant deposit falls, or
    - (ii) by reference to another amount which is a proportion (“Y%”) of the total amount of all the scheme deposits held by the entity, and
  - (c) X% or (as the case may be) Y% exceeds the proportion (“Z%”) of the relevant deposit covered by the scheme.
- (5) The scheme is treated—
- (a) in a case within sub-paragraph (4)(b)(i), as covering X% of the relevant deposit (instead of Z%), and
  - (b) in a case within (4)(b)(ii), as covering Y% or, if smaller, 100% of the relevant deposit (instead of Z%).
- (6) In sub-paragraph (4) “scheme deposit” means a deposit the whole or part of which is covered by the scheme (disregarding sub-paragraph (5)).
- (7) A deposit is “protected” so far as it is covered by a guarantee—
- (a) which is given explicitly by a national government (other than the government of the United Kingdom), and
  - (b) under which the government guarantees to compensate depositors for losses on their deposits.
- (8) In sub-paragraph (2), and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (2), “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ( S.I. 2001/544).
- (9) In sub-paragraphs (3) and (7), and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (3), “deposit” has the meaning given by article 5(2) of that Order but ignoring the exclusions in articles 6 to 9AB.
- (10) If two or all of sub-paragraphs (2), (3) and (7) apply to a deposit, the amount of the deposit “protected” is the highest amount which results from any one of those sub-paragraphs.
- 30 (1) Equity and liabilities which are “tier one capital equity and liabilities” are excluded.
- (2) “Tier one capital equity and liabilities” means, in relation to an entity or a group of entities, so much of the entity or group's equity and liabilities as—

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- (a) is tier one capital before deductions for the purposes of the FSA Handbook, or
    - (b) would be treated as tier one capital before deductions for those purposes were the tier one capital before deductions of the entity or group as at the end of the chargeable period to be determined under that Handbook.
- 31 (1) Sovereign repo liabilities are excluded.
- (2) “Sovereign repo liability” means a liability of a person (“A”) which represents a sum of money or other asset received by A from another person (“B”) under an arrangement where—
- (a) under the arrangement A sells high quality securities at any time to B,
  - (b) the arrangement makes provision conferring a right or imposing an obligation on A to buy those or similar securities at any subsequent time, and
  - (c) the subsequent buying of those or similar securities would extinguish the liability.
- (3) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (2) as it applies for the purposes of Chapter 10 of Part 6 of that Act.
- (4) Securities are “high quality” if—
- (a) they are debt securities issued by entities within section BIPRU 12.7.3(1) or (2) of the FSA Handbook which meet the requirements of section BIPRU 12.7.4(1) and (2), or
  - (b) they are issued by a designated multilateral development bank.
- “Debt securities” has the same meaning as that term has in section BIPRU 12.7.3 of the FSA Handbook.
- 32 (1) Sovereign stock-lending liabilities are excluded.
- (2) “Sovereign stock-lending liabilities” means liabilities of the lender to redeliver equivalent cash collateral under a stock lending arrangement in respect of high quality securities.
- (3) Section 805 of CTA 2010 (“stock lending arrangement”) applies for the purposes of sub-paragraph (2) as it applies for the purposes of Chapter 5 of Part 17 of that Act, and the reference in sub-paragraph (2) to “the lender” is to be construed accordingly.
- (4) Paragraph 31(3) and (4) apply for the purposes of this paragraph.
- 33 (1) Relevant insurance liabilities are excluded.
- (2) “Relevant insurance liabilities” means liabilities of a regulated insurer carrying on an insurance business which are—
- (a) liabilities to policyholders under contracts of general insurance or contracts of long-term insurance, including such contracts effected or carried out outside the United Kingdom,
  - (b) liabilities representing unallocated surpluses, or
  - (c) liabilities representing participants' interests in collective investment schemes.
- (3) The liabilities of a regulated insurer within sub-paragraph (2)(c) include a liability which would be a liability of the insurer within that provision if the insurer prepared consolidated financial statements.

*Status: Point in time view as at 01/01/2013.*

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- (4) In this paragraph—
- “collective investment scheme” has the same meaning as in Part 17 of FISMA 2000 (see sections 235 and 237 of that Act);
  - “contract of general insurance” means a contract of a type described in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);
  - “contract of long-term insurance” means a contract of a type described in Part 2 of that Schedule;
  - “regulated insurer” means an entity which—
    - (a) is authorised under the law of any territory to carry on insurance business, or
    - (b) is a member of a body or organisation which is so authorised;
  - “unallocated surplus” means the fund for future appropriations shown in line 15 of Form 3 of a return deposited with the Financial Services Authority under section 9.6 of the Interim Prudential Sourcebook for Insurers made by that Authority under FISMA 2000.
- 34 (1) Relevant property, plant and equipment reserves are excluded.
- (2) “ Relevant property, plant and equipment reserves ” means equity amounts representing revaluation reserves relating to the revaluation of property, plant and equipment under International Accounting Standard 16 or Financial Reporting Standard 15.
- (3) “ Property, plant and equipment ” has the meaning given, for the time being, by International Accounting Standard 16.
- 35 (1) Relevant tax liabilities are excluded.
- (2) In relation to liabilities to be determined by reference to amounts recognised, or which would have been recognised, in consolidated financial statements or financial statements prepared under international accounting standards, “ relevant tax liabilities ” means liabilities representing—
  - (a) current tax or deferred tax liabilities within the meaning, for the time being, of International Accounting Standard 12, or
  - (b) an amount of the bank levy.
- (3) In relation to liabilities to be determined by reference to amounts recognised, or which would have been recognised, in consolidated financial statements or financial statements prepared under UK GAAP, “relevant tax liabilities” means liabilities representing—
  - (a) current tax or deferred tax within the meaning, for the time being, of Financial Reporting Standard 16 or 19, or
  - (b) an amount of the bank levy.
- 36 (1) Relevant retirement benefit liabilities are excluded.
- (2) In relation to liabilities to be determined by reference to amounts recognised, or which would have been recognised, in consolidated financial statements or financial statements prepared under international accounting standards, “ relevant retirement benefit liabilities ” means liabilities under defined benefit plans within the meaning, for the time being, of International Accounting Standard 19.

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- (3) In relation to liabilities to be determined by reference to amounts recognised, or which would have been recognised, in consolidated financial statements or financial statements prepared under UK GAAP, “relevant retirement benefit liabilities” means liabilities under defined benefit schemes within the meaning, for the time being, of Financial Reporting Standard 17.
- 37 (1) Financial services compensation scheme liabilities are excluded.
- (2) “Financial services compensation scheme liabilities” means liabilities representing—
- (a) levies payable by virtue of section 213(2)(b) of FISMA 2000, or
  - (b) levies payable for purposes comparable with those mentioned in section 213(2)(b) of that Act in relation to a scheme which—
    - (i) operates outside the United Kingdom, and
    - (ii) is comparable to the Financial Services Compensation Scheme under section 213 of that Act.
- 38 (1) Liabilities representing clients' money held by an authorised person are excluded.
- (2) “Authorised person” means an entity which—
- (a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or
  - (b) would be required to be such an authorised person if it were a UK resident entity which carried on its activities in the United Kingdom.
- (3) “Clients' money”—
- (a) in relation to an authorised person within sub-paragraph (2)(a), has the meaning given by section 139(1) of FISMA 2000 (rules relating to handling of money), and
  - (b) in relation to an authorised person within sub-paragraph (2)(b), means any money held by the person outside the United Kingdom where the holding of that money is subject to rules comparable with rules made under section 139 of that Act,
- but does not include a deposit within the meaning of article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) ignoring the exclusions in articles 6 to 9AB.
- 39 (1) Currency liabilities are excluded.
- (2) “Currency liabilities” means liabilities of an entity or a group of entities representing notes issued by the entity or a member of the group as currency.

## PART 5

### SUPPLEMENTARY PROVISION

#### *Netting agreements*

- 40 (1) The Treasury may by order add to, repeal or otherwise amend any of paragraphs 16, 18(8) to (17), 20(8) to (17), 22 and 25.
- (2) An order under this paragraph may make consequential amendments of this Schedule.



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- (3) An order under this paragraph may have retrospective effect in relation to—
  - (a) any chargeable period in which the order is made, or
  - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (4) Orders under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing an order under this paragraph may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.

*Chargeable periods: entities which do not prepare financial statements*

- 41 (1) This paragraph applies where an entity does not prepare financial statements (consolidated or otherwise) for a period (“ the relevant period ”).
- (2) If the relevant period is 12 months or less, this Schedule (apart from this paragraph) applies as if that period were a period of account of the entity.
- (3) If the relevant period is more than 12 months, this Schedule (apart from this paragraph) applies as if each period to which sub-paragraph (4) applies were a period of account of the entity.
- (4) This sub-paragraph applies to a period if—
  - (a) it is the first period of 12 months falling within the relevant period, or
  - (b) it begins immediately after the end of the period mentioned in paragraph (a) and ends at the end of the relevant period.
- (5) Sub-paragraph (6) applies if, at the end of a period of 36 months beginning with a relevant date, an entity has not prepared financial statements for a period which begins with that date.
- (6) The entity is to be treated for the purposes of this paragraph as not having prepared financial statements for that period or, if that period exceeds 24 months, for the first 24 months of that period.
- (7) “ Relevant date ” means—
  - (a) 1 January 2011,
  - (b) the first day after a period, ending on or after that date, for which the entity has prepared financial statements, or
  - (c) the first day after a period for which the company is treated under sub-paragraph (6) as not having prepared financial statements.

*Financial statements etc*

- 42 (1) This paragraph applies for the purposes of this Schedule.
- (2) References to consolidated financial statements for a period include references to a consolidated balance sheet (or consolidated statement of financial position) as at the last day of the period.
- (3) References to financial statements for a period include references to a balance sheet (or statement of financial position) as at the last day of the period.

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- (4) References to amounts recognised in consolidated financial statements or financial statements include references to an amount comprised in an amount so recognised.
- (5) Sub-paragraph (6) applies if an amount for the chargeable period, or as at the last day of the chargeable period, is so recognised in a currency other than sterling.
- (6) The amount is to be translated into its sterling equivalent by reference to the spot rate of exchange for the last day of the chargeable period.
- (7) If consolidated financial statements or financial statements for the chargeable period are not prepared in a way which complies with the relevant accounting framework under which the statements are prepared, the statements are to be adjusted as necessary to ensure that they comply.
- (8) In sub-paragraph (7) “ relevant accounting framework ” means—
  - (a) international accounting standards,
  - (b) US GAAP , or
  - (c) UK GAAP.
- (9) In relation to the preparation of consolidated financial statements or financial statements under UK GAAP, Financial Reporting Standard 23 and Financial Reporting Standard 26 are to be treated as if they were mandatory for all entities.
- (10) Accordingly, if any statements are prepared under UK GAAP without one or both of those Standards being applied, the statements are to be treated as not complying with UK GAAP and adjusted under sub-paragraph (7) accordingly.

#### *Joint ventures*

- 43 (1) This paragraph applies if—
- (a) the relevant group is a foreign banking group or a relevant non-banking group,
  - (b) a member of the relevant group has an interest (“ the relevant interest ”) in a joint venture for the purposes of those provisions of the applicable accounting standards which relate to joint ventures,
  - (c) the amounts recognised in the relevant consolidated financial statements include amounts representing the liabilities (“the JV liabilities”) of the joint venture so far as determined by the relevant interest, <sup>[F43]</sup>and
  - (d) in the absence of this paragraph, none of the liabilities taken into account in determining the amount of the chargeable equity and liabilities of the relevant group would include the JV liabilities.]
  - (e) none of the liabilities of a relevant UK sub-group, a relevant UK banking sub-group or any entity for the purposes of (as the case may be) paragraph 17(6)(a) or (12)(a), 19(6)(a) or (12)(a) or 27(2)(a) include the JV liabilities.
- <sup>[F44]</sup>(2) For the purposes of determining the chargeable equity and liabilities of the relevant group under paragraph 17 or 19 (as the case may be) the joint venture is to be treated as if—
- (a) it were a member of the group in relation to—
    - (i) the liabilities of the joint venture which consist of the JV liabilities, and
    - (ii) the assets of the joint venture so far as determined by the relevant interest, and

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- (b) it were not a member of the group in relation to the remaining liabilities and assets of the joint venture.]
- (3) In this paragraph references to the amounts recognised in the relevant consolidated financial statements are to—
  - (a) the amounts recognised in the relevant group's consolidated financial statements for the chargeable period as prepared under the applicable accounting standards, or
  - (b) if no such financial statements are prepared, the amounts which would have been so recognised had consolidated financial statements for the relevant group been prepared for the chargeable period under international accounting standards.
- (4) “ The applicable accounting standards ” means—
  - (a) international accounting standards, or
  - (b) US GAAP if the members of the relevant group are determined under paragraph 4(7).

#### Textual Amendments

- F43** Sch. 19 para. 43(1)(d) and word substituted for Sch. 19 para. 43(1)(d) (with effect in accordance with Sch. 34 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 34 para. 8\(2\)](#) (with [Sch. 34 para. 12](#))
- F44** Sch. 19 para. 43(2) substituted (with effect in accordance with Sch. 34 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#) , [Sch. 34 para. 8\(3\)](#) (with [Sch. 34 para. 12](#) )

- 44
- (1) This paragraph applies for the purpose of determining the chargeable equity and liabilities of the relevant group or the relevant entity if, as at the end of the chargeable period—
    - (a) the parent entity or the relevant entity is a joint venture for the purposes of a JV standard, and
    - (b) the liabilities of the parent entity or the relevant entity include liabilities (“the JV liabilities”) which are subject to a double charge.
  - (2) The JV liabilities are to be left out for the purpose of determining the chargeable equity and liabilities.
  - (3) In sub-paragraph (1)(b) the reference to the liabilities of the parent entity includes any liabilities which, in the absence of this paragraph, would form part of the chargeable equity and liabilities of the relevant group.
  - (4) The JV liabilities are subject to a double charge if conditions A and B are met.
  - (5) Condition A is that an entity (“V”) which has an interest in the joint venture for the purposes of the JV standard—
    - (a) is an entity in relation to which paragraph 4(1) or 5(1) applies as at the end of the chargeable period (or in relation to which paragraph 4(1) or 5(1) would apply if V had a period of account ending at the same time as the chargeable period), or
    - (b) falls within sub-paragraph (6).
  - (6) V falls within this sub-paragraph if—
    - (a) there is another entity (“A”) in relation to which paragraph 4(1) applies as at the end of the chargeable period (or in relation to which paragraph 4(1)

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- would apply if A had a period of account ending at the same time as the chargeable period), and
- (b) V is (or would be) a member of the relevant group of which A is (or would be) the parent entity.
- (7) Condition B is that—
- (a) in the circumstances mentioned in sub-paragraph (5)(a) or sub-paragraph (5)(b) (when read with sub-paragraph (6)), the bank levy is charged (or would be charged), and
- (b) in determining the amount of the bank levy, the JV liabilities are (or would be) [<sup>F45</sup>taken into account in calculating the chargeable equity and liabilities of V (or where sub-paragraph (6) applies, A)] by virtue of V having an interest in the joint venture.
- (8) “JV standard” means those provisions of international accounting standards or UK GAAP which relate to joint ventures.

#### Textual Amendments

**F45** Words in Sch. 19 para. 44(7)(b) substituted (with effect in accordance with Sch. 34 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#) , [Sch. 34 para. 9](#) (with [Sch. 34 para. 12](#) )

#### *Residence*

- 45 For the purposes of this Schedule—
- (a) the territory in which a company is resident is to be determined as for corporation tax purposes, and
- (b) the territory in which a partnership is resident is the territory in which the control and management of the partnership's trade and investment activities take place.

#### *Bank levy to be ignored for other tax purposes*

- 46 In calculating profits or losses for the purposes of income tax or corporation tax—
- (a) no deduction is allowed in respect of the bank levy, and
- (b) no account is to be taken of any amount which is paid by a member of the relevant group to another member of the group for the purposes of meeting or reimbursing the cost of the bank levy charged in relation to the group.

#### *Anti-avoidance*

- 47 (1) This paragraph applies if—
- (a) arrangements are entered into by one or more entities, and
- (b) the main purpose, or one of the main purposes, of the entity, or any of the entities, in entering into the arrangements or any part of them is to avoid or reduce a charge or assessment to the bank levy.
- (2) In this paragraph “the relevant arrangements”—
- (a) means the arrangements or the part of them referred to in sub-paragraph (1)(b), and
- (b) includes any part of those arrangements or of that part.

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- (3) Sub-paragraph (4) applies if an effect of the relevant arrangements is that the bank levy is not charged or assessed as it would have been in the absence of the relevant arrangements.
- (4) The bank levy is charged or assessed as it would have been ignoring that effect.
- (5) The cases covered by sub-paragraph (3) include (in particular) cases in which the bank levy is charged or assessed but an effect of the relevant arrangements is that the amount of the bank levy charged or assessed—
  - (a) is nil, or
  - (b) is otherwise less than it would have been in the absence of the relevant arrangements.
- (6) In sub-paragraphs (3) and (5) references to the relevant arrangements do not include those arrangements to the extent to which any of the following sub-paragraphs applies to them.
- (7) This sub-paragraph applies to the relevant arrangements so far as their effect is to increase, on an ongoing basis, the excluded equity and liabilities of the relevant group or the relevant entity.
- (8) This sub-paragraph applies to the relevant arrangements so far as their effect is to increase, on an ongoing basis, the long term equity and liabilities of the relevant group or the relevant entity.
- (9) This sub-paragraph applies to the relevant arrangements so far as—
  - (a) their effect is to reduce, on an ongoing basis, the short term liabilities of the relevant group or the relevant entity, and
  - (b) there is no corresponding increase, on an ongoing basis or otherwise, in the amount of the funding, or the size of the financial obligations, of the relevant group or the relevant entity which is not, or are not, excluded equity and liabilities or long term equity and liabilities (it being immaterial for this purpose whether or not any such funding or obligation is recognised in the financial statements of the group or entity).
- (10) This sub-paragraph applies to the relevant arrangements so far as—
  - (a) their effect is to reduce, on an ongoing basis, the long term equity and liabilities of the relevant group or the relevant entity, and
  - (b) there is no corresponding increase, on an ongoing basis or otherwise, in the amount of the funding, or the size of the financial obligations, of the relevant group or the relevant entity which is not, or are not, excluded equity and liabilities (it being immaterial for this purpose whether or not any such funding or obligation is recognised in the financial statements of the group or entity).
- (11) This sub-paragraph applies to the relevant arrangements so far as they are an agreement within paragraph 16(1)(c) and (d), 18(8)(c) and (d), 20(8)(c) and (d), 22(1)(c) and (d) or 25(1)(c) and (d).
- (12) This sub-paragraph applies to the relevant arrangements so far as their effect is to increase, on an ongoing basis, the amount of the high quality liquid assets of the relevant group or the relevant entity.

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- (13) If the relevant group is a foreign banking group or a relevant non-banking group, in the sub-paragraphs above references to the relevant group are to be read as references to the members of the group, collectively, which are relevant members.
- (14) In sub-paragraph (13) “relevant member”—
- (a) has the same meaning as in paragraph 18 or 20 (as the case may be), and
  - (b) includes a relevant foreign bank covered by paragraph 17(17) or 19(17) (as the case may be).
- 48 (1) Section 1139 of CTA 2010 (definition of “tax advantage”) is amended as follows.
- (2) In subsection (2)—
- (a) omit the “or” after paragraph (c), and
  - (b) after paragraph (d) insert “, or
  - (e) the avoidance or reduction of a charge or assessment to the bank levy under Schedule 19 to FA 2011 (the bank levy).”
- (3) After subsection (3) insert—
- “(3A) The avoidance or reduction of a charge or assessment to the bank levy as a result of arrangements to which paragraph 47 of Schedule 19 to FA 2011 (bank levy: anti-avoidance) applies is to be ignored for the purposes of subsection (2)(e) to the extent that it results from arrangements, or part of arrangements, to which any of paragraph 47(7) to (12) of that Schedule applies.”

## PART 6

### COLLECTION AND MANAGEMENT

#### *Responsibility for collection and management*

- 49 (1) The Commissioners for Her Majesty's Revenue and Customs are responsible for the collection and management of the bank levy.
- (2) In this Part of this Schedule “HMRC” means Her Majesty's Revenue and Customs.

#### *Payment of the bank levy through the corporation tax system*

- 50 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 4.
- (2) The bank levy is to be treated as if it were an amount of corporation tax chargeable on the relevant group's responsible member (see paragraph 54) for the accounting period or periods determined in accordance with the following sub-paragraphs.
- (3) Subject to what follows, the accounting period for which the bank levy is to be treated as if it were an amount of corporation tax chargeable is to be—
- (a) the responsible member's accounting period which ends at the same time as the chargeable period, or
  - (b) if it does not have an accounting period which ends at that time, its accounting period during which the chargeable period ends.

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- (4) If a proportion (“X%”) of the chargeable period falls in any other accounting period of the responsible member, X% of the bank levy is to be treated as if it were an amount of corporation tax chargeable for that other accounting period.
- 51 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 5.
- (2) The bank levy is to be treated as if it were an amount of corporation tax chargeable on the relevant entity for the accounting period or periods determined in accordance with the following sub-paragraphs.
- (3) Subject to what follows, the accounting period for which the bank levy is to be treated as if it were an amount of corporation tax chargeable is to be—
- (a) the relevant entity's accounting period which ends at the same time as the chargeable period, or
- (b) if it does not have an accounting period which ends at that time, its accounting period during which the chargeable period ends.
- (4) If a proportion (“X%”) of the chargeable period falls in any other accounting period of the relevant entity, X% of the bank levy is to be treated as if it were an amount of corporation tax chargeable for that other accounting period.
- 52 (1) Paragraphs 50(2) and 51(2) are to be taken as applying all enactments applying generally to corporation tax.
- (2) This is subject to—
- (a) any provisions of the Taxes Acts (within the meaning of TMA 1970),
- (b) any necessary modifications, and
- (c) sub-paragraph (5).
- (3) The enactments mentioned in sub-paragraph (1) include—
- (a) those relating to returns of information and the supply of accounts, statements and reports,
- (b) those relating to the assessing, collecting and receiving of corporation tax,
- (c) those conferring or regulating a right of appeal, and
- (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law in any part of the United Kingdom.
- (4) Accordingly—
- (a) TMA 1970 is to have effect as if any reference to corporation tax included the bank levy where it is treated by paragraph 50(2) or 51(2) as an amount of corporation tax chargeable on an entity, and
- (b) in particular, where the bank levy is so treated, it is due and payable as an amount of corporation tax in accordance with section 59D of TMA 1970, subject to section 59E of that Act.
- (5) Nothing in section 53 of this Act (leases and changes to accounting standards) has effect in relation to the bank levy or any provision of this Schedule.

*Joint and several liability*

- 53 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 4.

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- (2) The entities within sub-paragraph (3) are jointly and severally liable for the bank levy liability of the relevant group's responsible member (see paragraph 54) for an accounting period; and HMRC may enforce that liability against any of those entities accordingly.
- (3) The entities within this sub-paragraph are—
- (a) if the relevant group is a relevant non-banking group, all relevant members of the relevant group within the charge to corporation tax as at the end of the chargeable period, or
  - (b) otherwise, all members of the relevant group within the charge to corporation tax as at the end of the chargeable period.
- (4) In sub-paragraph (3)(a) “relevant member” means a member of the relevant group which—
- (a) is a member of a relevant UK banking sub-group,
  - (b) is a UK resident bank covered by paragraph 19(10),
  - (c) is an entity covered by paragraph 19(11), or
  - (d) is a relevant foreign bank covered by paragraph 19(17).
- (5) An entity's liability by virtue of sub-paragraph (2) is not affected if, after the end of the chargeable period, it ceases to be within the charge to corporation tax.
- (6) An entity is not within sub-paragraph (3) if, as at the end of the chargeable period, it is—
- (a) a securitisation company,
  - (b) a covered bond vehicle, or
  - (c) an entity of a kind prescribed by an order made by the Treasury.
- (7) In sub-paragraph (6)—
- “capital market arrangement” has the same meaning as in section 72B(1) of the Insolvency Act 1986 (see paragraph 1 of Schedule 2A to that Act);
- “covered bond vehicle” means a limited liability partnership—
- (a) which is a party to a capital market arrangement, or a transaction in pursuance of a capital market arrangement,
  - (b) whose trade or business (ignoring any incidental activities) consists wholly of one or both of the following—
    - (i) providing guarantees, and
    - (ii) acquiring, owning and managing assets directly or indirectly forming the whole or part of the security for the capital market arrangement, and
  - (c) which is within the charge to corporation tax;
- “limited liability partnership” includes an entity established under the law of a territory outside the United Kingdom of a similar character to a limited liability partnership;
- “securitisation company” means a company of the kind mentioned in paragraphs (a) to (e) of section 83(2) of FA 2005 or paragraphs (a) to (e) of regulation 4(2) of the Taxation of Securitisation Companies Regulations 2006 ( S.I. 2006/3296).
- (8) The responsible member's “bank levy liability” for an accounting period—



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- (a) is the member's liability for corporation tax for that period as calculated in accordance with paragraph 8 of Schedule 18 to FA 1998 so far as the tax calculated consists of the bank levy by virtue of paragraph 50(2) of this Schedule, and
  - (b) includes any interest or penalties payable in relation to that tax so far as it consists of the bank levy.
- (9) An order under sub-paragraph (6) may have retrospective effect in relation to—
- (a) any chargeable period in which the order is made, or
  - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (10) Orders under sub-paragraph (6) are to be made by statutory instrument.
- (11) A statutory instrument containing an order under sub-paragraph (6) is subject to annulment in pursuance of a resolution of the House of Commons.

*Meaning of “the responsible member”*

- 54 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 4.
- (2) In this paragraph and paragraph 55 “chargeable member” means a member of the relevant group within paragraph 53(3).
- (3) The relevant group's responsible member is the entity (“E”) in relation to which the following requirements are met—
- (a) E is a chargeable member of the relevant group,
  - (b) E has an accounting period for corporation tax purposes which is the same as the chargeable period,
  - (c) during the chargeable period but no later than 45 days after it started, the parent entity, or another entity acting on behalf of the parent entity, nominated E to HMRC to be the responsible member, and
  - (d) HMRC did not reject E's nomination.
- See paragraph 55 for further provision about nominations.
- (4) If—
- (a) no entity meets the requirements in sub-paragraph (3) and the relevant group is a UK banking group or a building society group, and
  - (b) the parent entity is a chargeable member of the relevant group,
- the responsible member is the parent entity.
- (5) If no entity meets the requirements in sub-paragraph (3) and the relevant group is a foreign banking group or a relevant non-banking group, the responsible member is the entity in relation to which the following requirements are met—
- (a) it is a chargeable member of the relevant group,
  - (b) it has an accounting period for corporation tax purposes which is the same as the chargeable period, and
  - (c) it is—
    - (i) the relevant member with the largest amount of chargeable equity and liabilities, or

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- (ii) if the relevant member with the largest amount of chargeable equity and liabilities is a relevant UK sub-group or a relevant UK banking sub-group (as the case may be), the entity which is the parent or parent undertaking for that sub-group.
- (6) In sub-paragraph (5)(c) “relevant member”—
- (a) has the same meaning as in paragraph 18 or 20 (as the case may be), and
  - (b) includes a relevant foreign bank covered by paragraph 17(17) or 19(17) (as the case may be).
- (7) If no entity meets the requirements of sub-paragraph (3) or sub-paragraph (4) or (5) (as the case may be), the responsible member is the member of the relevant group determined by HMRC within the period of 30 days after the end of the chargeable period.
- (8) HMRC must give written notice of a determination under sub-paragraph (7) to the member concerned within that period.
- (9) HMRC cannot determine as the responsible member under sub-paragraph (7)—
- (a) an entity within paragraph 53(6)(a) or (b), or
  - (b) an entity of a kind prescribed by an order under paragraph 53(6)(c).
- (10) In relation to chargeable periods arising by virtue of paragraph 41 (chargeable periods: entities which do not prepare financial statements), the Treasury may by order modify the time limit applying to determinations under sub-paragraph (7) (including determinations in cases to which paragraph 65(3) applies).
- (11) An order under sub-paragraph (10) may amend paragraphs 41 to 44 of Schedule 18 to FA 1998 (discovery assessments and determinations) in relation to any bank levy charged by virtue of paragraph 41 of this Schedule.
- (12) Orders under sub-paragraph (10) are to be made by statutory instrument.
- (13) A statutory instrument containing an order under sub-paragraph (10) is subject to annulment in pursuance of a resolution of the House of Commons.
- (14) An order under sub-paragraph (10) may have retrospective effect in relation to—
- (a) any chargeable period in which the order is made, or
  - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- 55 (1) This paragraph applies for the purposes of paragraph 54(3).
- (2) Only one nomination may be made during the chargeable period.
  - (3) A nominator may nominate itself.
  - (4) HMRC may from time to time publish requirements as to the information to be included with a nomination.
  - (5) HMRC may reject a nomination within the period of 30 days starting with the day on which it receives the nomination.
  - (6) HMRC may reject a nomination only if—
    - (a) the nomination contravenes sub-paragraph (2),

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- (b) information required under sub-paragraph (4) is missing from the nomination, or
- (c) HMRC has reason to believe that the nominee will turn out—
  - (i) not to be a chargeable member of the relevant group,
  - (ii) not to have an accounting period for corporation tax purposes which is the same as the chargeable period, or
  - (iii) not to have sufficient resources itself to pay the bank levy.

*Consequential amendment to section 1 of PCTA 1968*

- 56 In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting certain taxes), in subsection (1) after “corporation tax” insert “, the bank levy”.

*Consequential amendments to TMA 1970*

- 57 TMA 1970 is amended as follows.
- 58 (1) Section 59E (provision about when corporation tax is due and payable) is amended as follows.
- (2) In subsection (11), after paragraph (c) insert—
- “(d) to the bank levy where treated as an amount of corporation tax chargeable on a company by paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy).”
- (3) After that subsection insert—
- “(12) Without prejudice to the generality of any provision above—
- (a) in relation to cases where the bank levy is treated as an amount of corporation tax chargeable on a company, regulations under this section may make provision—
    - (i) for amounts of the bank levy to be treated as becoming due and payable on dates which fall within the chargeable period (within the meaning of Schedule 19 to the Finance Act 2011);
    - (ii) for payments in respect of any such amounts of the bank levy as are mentioned in sub-paragraph (i) to become due and payable on dates which fall within that period;
  - (b) in relation to cases where a company on which the bank levy is treated as an amount of corporation tax chargeable for an accounting period has made payments in respect of corporation tax for that period, regulations under this section may make provision for or in connection with determining the extent to which those payments are to be treated as being payments of the bank levy;
  - (c) in relation to cases where a company (“ the relevant company ”) has made payments in respect of corporation tax for an accounting period wholly or partly on the assumption that the bank levy will be treated as an amount of corporation tax chargeable on the relevant company for that period, regulations under this section may make provision for or in connection with treating those payments (wholly or partly) to have been made by another company if it turns out that

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the bank levy is not to be treated as an amount of corporation tax chargeable on the relevant company for that period;

- (d) where regulations under this section impose a requirement within subsection (2)(j) above to furnish information for purposes related to the bank levy, the regulations may make provision for or in connection with applying Part 7 of Schedule 36 to the Finance Act 2008 in whole or in part (with or without modification) as if the requirement to furnish the information were contained in an information notice within the meaning of that Schedule.”

59 At the end of section 59F(6) (provision for paying corporation tax on behalf of group members) insert “, and

- (c) the bank levy where treated as an amount of corporation tax chargeable on a company by paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy).”

*Consequential amendments to Schedule 18 to FA 1998*

60 Schedule 18 to FA 1998 (company tax returns) is amended as follows.

61 At the end of paragraph 1 insert “, and

paragraphs 50 and 51 of Schedule 19 to the Finance Act 2011 (the bank levy).”

62 After paragraph 3 insert—

“3A (1) Her Majesty's Revenue and Customs may from time to time publish requirements as to the information, accounts, statements and reports which a company must deliver as part of its company tax return where the company has a tax liability by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy); and such information, accounts, statements and reports must be delivered as if the notice to the company under paragraph 3(1) had required them to be delivered (and paragraph 4 is to be read accordingly).

(2) The publication of any requirements under sub-paragraph (1) does not stop a notice under paragraph 3(1) requiring the delivery of any additional information, accounts, statements and reports as part of a company tax return.”

63 (1) Paragraph 8 is amended as follows.

(2) At the end of the “Third step” in sub-paragraph (1) insert— “ 3. Any amount of the bank levy chargeable by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy). ”

(3) After sub-paragraph (1) insert—

“(1A) Sub-paragraph (1B) applies if an amount of the bank levy chargeable by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy) is added at the third step.

(1B) Any deductions made at the fourth step are to be treated as made from all other amounts before being made from the amount of the bank levy.”

64 (1) Paragraph 11 is amended as follows.

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- (2) The existing provision becomes sub-paragraph (1).
- (3) After that sub-paragraph insert—
  - “(2) Sub-paragraph (1) does not affect—
    - (a) the power to require the delivery of accounts, information or documents in relation to a company's tax liability by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy), or
    - (b) the requirements which may be imposed under paragraph 3A.”

*Transitional provision*

- 65
- (1) Sub-paragraphs (2) to (6) apply if the chargeable period starts on or before the day on which this Act is passed (whether or not it ends on or before that day).
  - (2) Paragraph 54(3)(c) has effect as if for the words “during the chargeable period but no later than 45 days after it started” there were substituted “ within the period of 7 days starting with the day on which this Act is passed ” .
  - (3) Paragraph 54(7) has effect as if for the words “30 days after the end of the chargeable period” there were substituted “ 15 days starting with the day on which this Act is passed ” .
  - (4) Paragraph 55(5) has effect as if for “30” there were substituted “ 7 ” .
  - (5) Sub-paragraph (6) applies if, before the passing of this Act—
    - (a) HMRC published a statement stating that it was ready to receive nominations for responsible members,
    - (b) an entity made a nomination in accordance with HMRC 's statement, and
    - (c) the nomination included all information required by HMRC 's statement.
  - (6) For the purposes of paragraphs 54(3)(c) and 55(5) (as modified above) the nomination is to be treated as if it were made by the entity and received by HMRC immediately after the passing of this Act.
  - (7) The requirements covered by paragraph 55(4) include any requirements published by HMRC before the passing of this Act which are stated to apply for the purposes of nominations for responsible members.
  - (8) But such requirements are to apply only to nominations made during 2011.
  - (9) Regulations under section 59E of TMA 1970, in relation to amounts within subsection (11)(d) of that section (amounts of bank levy), made on or before 31 December 2011 may have effect in relation to amounts of bank levy which—
    - (a) are payable in respect of chargeable periods ending on or before that day, or
    - (b) are treated as amounts of corporation tax for accounting periods ending on or before that day.

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## PART 7

### DOUBLE TAXATION RELIEF

#### *Arrangements affording double taxation relief*

- 66 (1) If the Treasury by order declares—
- (a) that arrangements specified in the order have been made in relation to any foreign territory with a view to affording relief from double taxation in relation to the bank levy and any equivalent foreign levy, and
  - (b) that it is expedient that those arrangements should have effect,
- those arrangements (“double taxation arrangements”) have effect so far as they provide for relief from the bank levy.
- (2) In this Part of this Schedule—
- “equivalent foreign levy”, in relation to a foreign territory, means any tax imposed by the law of that territory which corresponds to the bank levy;
  - “foreign territory” means a territory outside the United Kingdom.
- (3) For the purposes of sub-paragraph (2), tax may correspond to the bank levy even though—
- (a) the tax is payable under the law of a province, state or other part of a country,
  - (b) it is levied by or on behalf of a municipality or other local body, or
  - (c) its proceeds form a fund used for a particular purpose.
- (4) Double taxation arrangements have effect under sub-paragraph (1)—
- (a) subject to the following provisions of this paragraph, and
  - (b) despite anything in any other enactment.
- (5) This paragraph gives effect to arrangements even if they provide for relief from the bank levy for periods before the making of the arrangements or before the passing of this Act.
- (6) Relief under this paragraph requires a claim.
- (7) An order under this paragraph revoking an earlier order may contain transitional provisions that appear to the Treasury to be necessary or expedient.
- (8) The Treasury may by regulations make provision—
- (a) generally for carrying out the provisions of this paragraph or double taxation arrangements;
  - (b) for removing, or reducing the amount of, relief obtained by virtue of double taxation arrangements in circumstances where a scheme or arrangement of a specified description has been made or in other specified circumstances;
  - (c) for restricting the amount of relief allowed against an entity's liability for the bank levy for a chargeable period to an amount calculated in a specified manner.
- (9) Regulations under sub-paragraph (8)(a) may, in particular, provide that where, under double taxation arrangements, the Commissioners for Her Majesty's Revenue and Customs arrive at a solution to a case, or make a mutual agreement with an authority in another territory for the resolution of a case—

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- (a) the Commissioners are to give effect to the solution or mutual agreement despite anything in any enactment, and
  - (b) any adjustment as is appropriate in consequence may be made.
- [<sup>F46</sup>(9A) If arrangements specified in an order under this paragraph provide for relief from the bank levy for periods before the order is made, regulations under this paragraph which are made on the same day as the order, and come into force on the same day as the order, may make provision in relation to those periods.]
- (10) Regulations under this paragraph may—
- (a) amend any provision made by or under an Act whenever passed or made (including this Act), and
  - (b) contain transitional provisions that appear to the Treasury to be necessary or expedient.
- (11) Orders or regulations under this paragraph are to be made by statutory instrument.
- (12) A statutory instrument containing an order or regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

#### Textual Amendments

**F46** Sch. 19 para. 66(9A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#) , [Sch. 34 para. 11\(1\)](#)

#### *Power to provide for double taxation relief*

- 67 (1) The Treasury may by regulations make provision for relief from the bank levy for the purpose of affording relief from double taxation in relation to the bank levy and any equivalent foreign levy imposed by the law of a foreign territory.
- (2) Regulations under this paragraph must specify the equivalent foreign levy or levies in respect of which they are made.
- (3) Regulations under this paragraph may, in particular—
- (a) provide for relief from the bank levy for periods before the making of the regulations or before the passing of this Act;
  - (b) make provision for removing, or reducing the amount of, relief obtained in circumstances where a scheme or arrangement of a specified description has been made or in other specified circumstances;
  - (c) make provision for restricting the amount of relief allowed against an entity's liability for the bank levy for a chargeable period to an amount calculated in a specified manner.
- (4) Regulations under this paragraph may—
- (a) make different provision for different purposes, cases or circumstances,
  - (b) amend any provision made by or under an Act whenever passed or made (including this Act), and
  - (c) contain transitional provisions that appear to the Treasury to be necessary or expedient.
- (5) Regulations under this paragraph are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph—

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- (a) in a case where the reciprocity condition is met, are subject to annulment in pursuance of a resolution of the House of Commons, and
  - (b) in any other case, may not be made unless a draft has been laid before and approved by a resolution of that House.
- (7) The reciprocity condition is met if the Treasury is satisfied that in relation to the foreign territory or each of the foreign territories concerned—
- (a) appropriate provision has been made under the law of the territory for relief from double taxation in relation to the bank levy and the equivalent foreign levy under the law of that territory to which the regulations apply, or
  - (b) such provision will be made as a result of an agreement which has been entered into in relation to the territory.

*[<sup>F47</sup> Disclosure of information to foreign tax authorities etc*

#### Textual Amendments

**F47** Sch. 19 para. 67A and cross-heading inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#) , [Sch. 34 para. 11\(2\)](#)

- 67A (1) If the Treasury by order declares that—
- (a) international tax enforcement arrangements which are specified in the order have been made in relation to any territory or territories outside the United Kingdom in association with double taxation arrangements specified under paragraph 66 in the same or a previous order, and
  - (b) it is expedient that those international tax enforcement arrangements have effect,
- those arrangements have effect, and do so in spite of anything in any enactment or instrument.
- (2) “ International tax enforcement arrangements ” means arrangements which relate to one or both of the following—
- (a) the exchange of information foreseeably relevant to the administration, enforcement or recovery of the bank levy or any equivalent foreign levy to which the double taxation arrangements relate;
  - (b) the service of documents relating to the bank levy or any such equivalent foreign levy.
- (3) An order under this paragraph revoking an earlier order may contain transitional provisions that appear to the Treasury to be necessary or expedient.
- (4) Subsections (4) and (5) of section 173 of FA 2006 (international tax enforcement arrangements: disclosure of information) apply to arrangements which have effect under this paragraph as they apply to arrangements which have effect under that section.
- (5) Orders under this paragraph are to be made by statutory instrument.
- (6) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.]



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F48 ...

#### Textual Amendments

**F48** Sch. 19 para 68 (crossheading)(disclosure)(of)(information)(to)(foreign)(tax)(authorities) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#) , [Sch. 34 para. 11\(3\)](#)

- 68 (1) Sub-paragraph (2) applies if the law of a foreign territory makes provision allowing, in respect of payments of the bank levy, relief from an equivalent foreign levy payable under that law.
- (2) No obligation as to secrecy or other restriction on the disclosure of information prevents the Commissioners for Her Majesty's Revenue and Customs, or an officer of Revenue and Customs, from disclosing to the authorised officer of the authorities of the territory such facts as may be necessary to enable the proper relief to be given under the law of the territory.

#### *Consequential amendment to the Constitutional Reform and Governance Act 2010*

- 69 In section 23 of the Constitutional Reform and Governance Act 2010 (which excepts certain treaties from the requirements imposed by section 20 of that Act as to the laying of treaties before Parliament), after subsection (2) insert—
- “(2A) Section 20 does not apply to a treaty in relation to which an order may be made under paragraph 66 of Schedule 19 to the Finance Act 2011 (bank levy: arrangements affording double taxation relief).”

## PART 8

### DEFINITIONS

#### *General*

- 70 (1) In this Schedule—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not it is legally enforceable);
  - “asset management activities” is defined in paragraph 71;
  - “assets” is defined in paragraph 14;
  - “banking group” is defined in paragraph 12;
  - “the bank levy” is defined in paragraph 1;
  - “building society” means a building society within the meaning of the Building Societies Act 1986;
  - “building society group” is defined in paragraph 9;
  - “capital resources condition” is defined in paragraph 72;
  - “the chargeable period” is defined in paragraph 4(1) or 5(1) (as the case may be);
  - “company” has the meaning given by section 1121(1) of CTA 2010;
  - “contract of insurance” has the meaning given by article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

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- “entity” includes a company, a partnership or a joint venture, but not—
- (a) the Crown,
  - (b) a Minister of the Crown,
  - (c) a government department,
  - (d) a Northern Ireland department,
  - (e) a foreign sovereign power, or
  - (f) an international organisation;
- “equity” is defined in paragraph 14;
- “excluded”, in relation to equity and liabilities, is defined in paragraph 28;
- “excluded entity” is defined in paragraph 73;
- “exempt activities condition” is defined in paragraph 13;
- “fair value”, in relation to an item, means the amount for which the item could be exchanged between knowledgeable, willing parties in an arm's length transaction;
- “foreign banking group” is defined in paragraph 10;
- “the FSA Handbook” means the Handbook of Rules and Guidance made by the Financial Services Authority (as that Handbook has effect from time to time);
- “high quality liquid asset”, in relation to an entity or group of entities, means an asset (within the meaning of this Schedule) within section BIPRU 12.7.2(1) to (4) of the FSA Handbook (whether or not it is held by an ILAS BIPRU firm), but see sub-paragraph (4);
- “international accounting standards” has the meaning given by section 1127(5) of CTA 2010, including any modifications mentioned in section 1127(6);
- “international organisation” means an organisation of which—
- (a) two or more sovereign powers are members, or
  - (b) the governments of two or more sovereign powers are members,
- (see also sub-paragraph (5));
- “liabilities” is defined in paragraph 14;
- “long term”, in relation to equity and liabilities, is defined in paragraphs 74 to 77;
- “the parent entity” is defined in paragraph 4(1);
- “partnership” includes—
- (a) a limited liability partnership, and
  - (b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,
- and “member”, in relation to a partnership, is to be read accordingly;
- “period of account”, in relation to an entity, means a period for which the entity prepares financial statements (consolidated or otherwise), (see also paragraph 41);
- “permanent establishment” is to be read in accordance with Chapter 2 of Part 24 of CTA 2010;
- “the relevant entity” is defined in paragraph 5(1);
- “relevant foreign bank” is defined in paragraph 78;
- “the relevant group” is defined in paragraph 4(1);

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“relevant non-banking group” is defined in paragraph 11;  
“relevant regulated activity” is defined in paragraph 79;  
“relevant UK banking sub-group” is defined in paragraph 19(5);  
“relevant UK sub-group” is defined in paragraph 17(5);  
“short term”, in relation to liabilities, means any liabilities which are not long term;  
“UK allocated equity and liabilities” is defined in paragraph 24;  
“UK banking sub-group” is defined in paragraph 19(4);  
“UK GAAP” means UK generally accepted accounting practice as defined in section 1127(2) of CTA 2010 (subject to paragraph 42(9));  
“UK resident bank” is defined in paragraph 80;  
“UK resident entity” means an entity which is resident in the United Kingdom (see paragraph 45) and “non-UK resident entity” is to be read accordingly;  
“UK sub-group” is defined in paragraph 17(4);  
“US GAAP” means United States Generally Accepted Accounting Principles.

(2) In this Schedule the following terms have the meaning given in the FSA Handbook—

“authorised corporate director”;  
“BIPRU 730k firm”;  
“capital resources requirement”;  
“contracts for differences”;  
“discretionary investment manager”;  
“exempt BIPRU commodities firm”;  
“full scope BIPRU investment firm”;  
“ILAS BIPRU firm”;  
“designated multilateral development bank”;  
“pension scheme”;  
“principal”;  
“retail client”.

(3) A entity which would be a BIPRU 730k firm and a full scope BIPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom is to be treated as being one.

(4) The definition of “high quality liquid assets” has effect, in relation to a particular entity or group of entities, subject to any direction made in relation to that entity or group under section 148 of FISMA 2000 (modification or waiver of rules).

(5) If, in any proceedings, any question arises whether a person is an international organisation for the purposes of the definition of “entity” in sub-paragraph (1), a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question is conclusive evidence of that fact.

*“Asset management activities”*

71 (1) “Asset management activities” means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—

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- (a) acting as the operator of a collective investment scheme (within the meaning of Part 17 of FISMA 2000: see sections 235 and 237 of that Act),
  - (b) acting as a discretionary investment manager for clients none of which is a linked entity, and
  - (c) acting as an authorised corporate director.
- (2) In sub-paragraph (1), “linked entity”, in relation to an entity (“E”), means—
- (a) a member of the same group as E,
  - (b) a company in which a company which is a member of the same group as E has a major interest (within the meaning of Part 5 of CTA 2009: see section 473 of that Act), or
  - (c) a partnership the members of which include an entity—
    - (i) which is a member of the same group as E, and
    - (ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the chargeable period is at least a 40% share (see Part 17 of CTA 2009 for provisions about shares of partnership profits and losses).
- (3) In sub-paragraph (2) “group” means a group for the purposes of—
- (a) the provisions mentioned in paragraph 4(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 4(6)(a)(iii).

*[<sup>F49</sup> “Capital resources condition”*

**Textual Amendments**

**F49** Sch. 19 para. 69A and cross-heading inserted (with effect in accordance with s. 204(5)-(7) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), s. 204(3)

- 72 (1) “The capital resources condition” is that the entity has a capital resources requirement of at least £100,000,000.
- (2) But if the entity is a member of a group, “the capital resources condition” is that the entity and—
- (a) any other entities which—
    - (i) are members of the group,
    - (ii) meet either of the conditions in sub-paragraph (3),
    - (iii) are not excluded entities, and
    - (iv) are not members of any partnership within paragraph (b), and
  - (b) any partnership—
    - (i) the members of which are or include one or more entities which are members of the group and not excluded entities, and
    - (ii) which meets either of the conditions in sub-paragraph (3),
- have (in aggregate) capital resources requirements of at least £100,000,000.
- (3) The conditions referred to in sub-paragraph (2) are that the entity or partnership—
- (a) is both a BIPRU 730k firm and a full scope BIPRU investment firm, or

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- (b) is an entity or partnership which carries on in the United Kingdom activities including the relevant regulated activity described in the provision mentioned in paragraph 79(a).
- (4) In determining whether the entity is a UK resident bank or a relevant foreign bank by virtue of paragraph 78(2) or 80(2), the references in sub-paragraph (1) to the entity are to the partnership.
- (5) If any entity whose capital resources may be material for the purposes of sub-paragraph (1) or (2) prepares its accounts in a currency other than sterling, the amount of its capital resources at the end of the chargeable period is to be translated into its sterling equivalent by reference to the spot rate of exchange on the last day of the chargeable period.
- (6) If any entity whose capital resources may be material for the purposes of sub-paragraph (1) or (2) carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom, its capital resources are to be determined as they would be for corporation tax purposes (see Chapter 4 of Part 2 of CTA 2009).
- (7) In sub-paragraph (2) “ group ” means a group for the purposes of—
  - (a) the provisions mentioned in paragraph 4(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 4(6)(a)(iii).

*“Excluded entity”*

- 73 (1) “ Excluded entity ” means an entity which is—
- (a) an insurance company or an insurance special purpose vehicle,
  - (b) an entity which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or insurance special purpose vehicle which is a member of the group,
  - (c) an entity which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme,
  - (d) an investment trust (within the meaning given by section 1158 of CTA 2010),
  - (e) an entity which does not carry on any relevant regulated activities other than asset management activities,
  - (f) an exempt BIPRU commodities firm,
  - (g) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives,
  - (h) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences—
    - (i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or
    - (ii) with another person to enable the entity or other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients,
  - (i) a society incorporated under the Friendly Societies Act 1992,
  - (j) a society registered as a credit union under the Industrial and Provident Societies Act 1965 or the Credit Unions (Northern Ireland) Order 1985 ( S.I. 1985/1205 (N.I. 12)), or
  - (k) a building society.

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- (2) In sub-paragraph (1)(a) and (b) “insurance company” and “insurance special purpose vehicle” have the <sup>F50</sup>meanings given by sections 65 and 139 of FA 2012 respectively  
].
- (3) In sub-paragraph (1)(b) “group” means a group for the purposes of—
- (a) the provisions mentioned in paragraph 4(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 4(6)(a)(iii).

#### Textual Amendments

**F50** Words in Sch. 19 para. 73(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 246](#)

#### *“Long term” equity and liabilities*

- 74 All equity is “long term”.
- 75 (1) Liabilities are “long term” to the extent that—
- (a) as at the end of the chargeable period, the liabilities are not required, and cannot be required, to be repaid or otherwise met during the 12 month period starting with the last day of the chargeable period, and
  - (b) in the case of liabilities of one member of the relevant group to another member of the relevant group, an officer of Revenue and Customs is satisfied that the following condition is also met in relation to the liabilities.
- (2) The condition is that, as at the end of the chargeable period, the liabilities are funded by the relevant group through—
- (a) equity,
  - (b) excluded liabilities to persons who are not members of the relevant group, or
  - (c) liabilities to such persons which are not required, and cannot be required, to be repaid or otherwise met during the 12 month period starting with the last day of the chargeable period.
- 76 (1) Liabilities are also “long term” so far as they consist of non-protected deposits.
- (2) But sub-paragraph (1) does not apply to a deposit if the depositor is—
- (a) an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or
  - (b) an entity which if it were a UK resident entity which carried on its activities in the United Kingdom would be required to be an authorised person.
- (3) A deposit is “non-protected” so far as it is not a protected deposit for the purposes of paragraph 29.
- (4) For the purposes of this paragraph—
- (a) “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ( S.I. 2001/544), and
  - (b) in relation to a deposit held in a territory outside the United Kingdom, the exclusions in articles 6 to 9AB of that Order apply with whatever modifications are appropriate to achieve the following purpose.

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(5) The purpose is that the exclusions are to cover, essentially, the same matters in relation to the territory concerned as they cover in relation to the United Kingdom.

77 Paragraphs 74 to 76 are subject to Step 6 in paragraph 24(1).

*“Relevant foreign bank”*

- 78 (1) “Relevant foreign bank ” means an entity which—
- (a) is a non-UK resident entity,
  - (b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
  - (c) is an entity which carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom and—
    - (i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 79(a), or
    - (ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 79(b) to (f),
  - (d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of that trade,
  - (e) meets the capital resources condition, and
  - (f) is not an excluded entity.
- (2) “Relevant foreign bank” also includes an entity which—
- (a) meets the conditions in sub-paragraph (1)(a) and (f), and
  - (b) is a member of a partnership which meets the conditions in paragraph 80(1)(b) to (e).

*“Relevant regulated activity”*

- 79 “Relevant regulated activity ” means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ( S.I. 2001/544)—
- (a) article 5 (accepting deposits),
  - (b) article 14 (dealing in investments as principal),
  - (c) article 21 (dealing in investments as agent),
  - (d) article 25 (arranging deals in investments),
  - (e) article 40 (safeguarding and administering investments), and
  - (f) article 61 (entering into regulated mortgage contracts).

*“ UK resident bank”*

- 80 (1) “UK resident bank ” means an entity which—
- (a) is a UK resident entity,
  - (b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
  - (c) is an entity—

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- (i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 79(a), or
  - (ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 79(b) to (f),
  - (d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade,
  - (e) meets the capital resources condition, and
  - (f) is not an excluded entity.
- (2) “UK resident bank” also includes an entity which—
- (a) meets the conditions in sub-paragraph (1)(a) and (f), and
  - (b) is a member of a partnership which meets the conditions in sub-paragraph (1)(b) to (e).]

## PART 9

### POWER TO MAKE CONSEQUENTIAL CHANGES

- 81 (1) The Treasury may, by order made by statutory instrument, make such amendments of this Schedule as they consider appropriate in consequence of—
- (a) any change made to or replacement of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (or any replacement),
  - (b) any change made to the FSA Handbook, or
  - (c) any change in international accounting standards, UK GAAP or US GAAP.
- (2) An order under this paragraph may have retrospective effect in relation to—
- (a) any chargeable period in which the order is made, or
  - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (3) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.



**Status:**

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**Changes to legislation:**

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