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## SCHEDULES

### SCHEDULE 19

#### THE BANK LEVY

#### 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);

“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;

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“foreign banking group” is defined in paragraph 10;

F1  
...

“high quality liquid asset”, in relation to an entity or group of entities, means an asset (within the meaning of this Schedule) within [F2section 12.7.2(1) to (4) of the Prudential Sourcebook for Banks, Building Societies and Investment Firms made by the Prudential Regulation Authority] (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;

[F3 “the PRA Handbook” means the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook has effect from time to time); ]

“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);

“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);

“UKGAAP” 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;

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“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 [F4PRA 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 [F5section 138A] 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.

#### Textual Amendments

**F1** Words in Sch. 19 para. 70(1) omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(6)(a)(i)**

**F2** Words in Sch. 19 para. 70(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(6)(a)(ii)**

**F3** Words in Sch. 19 para. 70(1) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(6)(a)(iii)**

**F4** Words in Sch. 19 para. 70(2) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(6)(b)**

**F5** Words in Sch. 19 para. 70(4) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(6)(c)**

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*“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—
- (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).

*F<sup>6</sup> “Capital resources condition”*

**Textual Amendments**

**F6** 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.

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- (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
  - (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

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- (k) a building society.
- (2) In sub-paragraph (1)(a) and (b) “insurance company” and “insurance special purpose vehicle” have the [F7 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

F7 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).]



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