

## SCHEDULE 1

regulation 11(4)

### INVESTMENTS WHICH ARE NOT RELEVANT INVESTMENTS

#### General Investments

1. Any investment which benefits directly or indirectly from the security offered by a Phoenix Fund guarantee or by any similar publicly-funded underwriting or guarantee arrangement.

#### Commencement Information

**I1** Sch. 1 para. 1 in force at 13.2.2003, see [reg. 1](#)

2.—(1) Any loan to a profit-distributing enterprise—

- (a) which is not made on terms that are equivalent to those offered by conventional sources of finance, or
- (b) as a consequence of which, and for so long as, the total amount of loans to that enterprise exceeds £100,000 (“the £100,000 limit”).

(2) Where the £100,000 limit is exceeded—

- (a) by two or more loans made on the same day, or
- (b) in any other circumstances where it is not possible to establish which loan caused the limit to be exceeded,

the Investment Director shall determine which of those loans shall not constitute relevant investments so that the amount of relevant investments in the enterprise approximates to but does not exceed the £100,000 limit.

#### Commencement Information

**I2** Sch. 1 para. 2 in force at 13.2.2003, see [reg. 1](#)

3.—(1) Any loan to a profit-distributing enterprise which is not made at market rates or above, or, where interest is not charged on loans the fee structure is not at an equivalent level.

(2) In paragraph (1) “market rate” means the European Commission’s Hurdle Rate, which is the Reference Rate (as published at [http://europa.eu.int/comm/competition/state\\_aid/others/reference\\_rates.html](http://europa.eu.int/comm/competition/state_aid/others/reference_rates.html)) plus four percentage points, or more.

#### Commencement Information

**I3** Sch. 1 para. 3 in force at 13.2.2003, see [reg. 1](#)

4.—(1) Any loan to or equity investment in a non-profit-distributing enterprise for the purposes of undertaking community projects as a consequence of which, and for so long as, the total amount invested in that enterprise exceeds £250,000 (“the £250,000 limit”).

(2) For the purpose of paragraph (1) “community projects” means—

- (a) public sector projects,
- (b) projects which benefit charities and other non-profit distributing bodies which are engaged entirely in public functions, non-competitive and non-commercial activity, or

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- (c) projects which are commercial in the sense that there is remuneration for the service provider and competition for their supply, but which are small-scale and purely local in nature.
- (3) Where the £250,000 limit is exceeded—
  - (a) by two or more loans or equity investments made on the same day, or
  - (b) in any other circumstances where it is not possible to establish which loan or investment caused the limit to be exceeded,

the Investment Director shall determine which of those loans or investments shall not constitute relevant investments so that the amount of relevant investments in the enterprise approximates to but does not exceed the £250,000 limit.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 13.2.2003, see [reg. 1](#)

- 5. Any investment in an enterprise as a consequence of which, and for so long as, the total amount invested by the CDFI in that enterprise exceeds 20% of the amount of the investment fund at—
  - (a) for the first year following accreditation, the date the investment is made by the CDFI, and
  - (b) thereafter, the immediately preceding anniversary of the accreditation date.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 13.2.2003, see [reg. 1](#)

- 6.—(1) Any investment in an enterprise within Case 2 of regulation 10 as a consequence of which, and for so long as—
  - (a) the total amount invested out of the investment fund by the CDFI in enterprises in Case 2 exceeds the amount invested in enterprises within Cases 1 and 3; or
  - (b) the number of investments out of the investment fund by the CDFI in enterprises in Case 2 exceeds the number of investments in enterprises within Cases 1 and 3.
- (2) For the purposes of paragraph (1) an investment in an enterprise which is within both Case 2 and Case 3 shall be treated as being only within Case 3.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 13.2.2003, see [reg. 1](#)

**Commencement Information**

- I1** Sch. 1 para. 1 in force at 13.2.2003, see [reg. 1](#)
- I2** Sch. 1 para. 2 in force at 13.2.2003, see [reg. 1](#)
- I3** Sch. 1 para. 3 in force at 13.2.2003, see [reg. 1](#)
- I4** Sch. 1 para. 4 in force at 13.2.2003, see [reg. 1](#)
- I5** Sch. 1 para. 5 in force at 13.2.2003, see [reg. 1](#)
- I6** Sch. 1 para. 6 in force at 13.2.2003, see [reg. 1](#)

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## Property investments, which are not relevant investments

7. Any investment which funds directly or indirectly the acquisition, construction or development of residential property.

### Commencement Information

**I7** Sch. 1 para. 7 in force at 13.2.2003, see [reg. 1](#)

8.—(1) Any investment which funds directly or indirectly the acquisition, construction or development of non-residential property where, on the next anniversary of the date on which the CDFI was granted accreditation, in consequence of that investment—

- (a) the total amount of investment within Case 1 below exceeds the amount of relevant investments other than those in Case 1, or
- (b) the total amount of investment within Case 2 below exceeds one half of the relevant investments within Case 1.

#### Case 1

- 1.1 Investment in a non profit-distributing enterprise, the main activity of which is to hold and invest in or to develop non-residential property.
- 1.2 Investment in a development trust or other social enterprise for the purpose of investment in or development of non-residential property, whether owned by the trust or by others.

#### Case 2

- 2.1 Investment in a profit-distributing enterprise, the main activity of which is holding land with the aim of benefiting from capital appreciation of that land, or with the aim of receiving income through the exploitation of an interest in it.
- 2.2 Investment in a profit-distributing enterprise, the main activity of which is non-residential property development.

(2) For the purposes of paragraph (1) where a investment is a loan which authorises the CDFI to draw down amounts of the loan over a period of time, the amount of the investment is the amount drawn down at the relevant date.

### Commencement Information

**I8** Sch. 1 para. 8 in force at 13.2.2003, see [reg. 1](#)

### Commencement Information

**I7** Sch. 1 para. 7 in force at 13.2.2003, see [reg. 1](#)

**I8** Sch. 1 para. 8 in force at 13.2.2003, see [reg. 1](#)

## Investments by retail community investment finance institutions

9. Where the CDFI has been accredited as a retail community investment finance institution, any investment in another CDFI or in any other body whose objective is to provide finance for enterprises in or for disadvantaged communities where, as a consequence of that investment, and for so long as, for more than three months the total amount invested in such bodies exceeds 10% of the amount of the investment fund at—

- (a) for the first year following accreditation, the date the investment is made by the CDFI, and

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(b) thereafter, the immediately preceding anniversary of the accreditation date.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 13.2.2003, see [reg. 1](#)

**10.** Any investment by a retail community investment finance institution in a body other than a CDFI whose objective is to provide finance for enterprises in or for disadvantaged communities as a consequence of which, and for so long as, the total amount of investment in such enterprises exceeds £250,000.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 13.2.2003, see [reg. 1](#)

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 13.2.2003, see [reg. 1](#)

**I10** Sch. 1 para. 10 in force at 13.2.2003, see [reg. 1](#)

**Investments by wholesale CDFIs**

**11.—(1)** Any investment made by a wholesale CDFI in an enterprise where as a consequence of which, and for so long as, the total amount of investment in that enterprise exceeds—

- (a) 20% of the amount of the investment fund at—
  - (i) for the first year following accreditation, the date the investment is made by the CDFI, and
  - (ii) thereafter, the immediately preceding anniversary of the accreditation date, or
- (b) £2,500,000

whichever is the lesser amount.

(2) Any investment made by a wholesale CDFI in a body other than a CDFI whose objective is to provide finance for enterprises in or for disadvantaged communities as a consequence of which, and for so long as, the total amount invested in that body exceeds £250,000.

(3) A “wholesale CDFI” means a CDFI which is not accredited as a retail community investment finance institution.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 13.2.2003, see [reg. 1](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 1 para. 9(a) substituted by [S.I. 2013/417 reg. 11\(3\)\(a\)](#)
- Sch. 1 para. 11(1)(a)(i) substituted by [S.I. 2013/417 reg. 11\(4\)\(a\)](#)
- Sch. 1 para. 2 sum substituted by [S.I. 2023/518 reg. 4\(a\)](#)
- Sch. 1 para. 4 sum substituted by [S.I. 2023/518 reg. 4\(c\)](#)
- Sch. 1 para. 4(1) words omitted by [S.I. 2013/417 reg. 11\(2\)\(a\)](#)
- Sch. 1 para. 4(3)(a) words omitted by [S.I. 2013/417 reg. 11\(2\)\(b\)\(i\)](#)
- Sch. 1 para. 4(3)(b) words omitted by [S.I. 2013/417 reg. 11\(2\)\(b\)\(ii\)](#)
- Sch. 1 para. 2(2) words substituted by [S.I. 2008/383 reg. 5\(2\)\(f\)](#)
- Sch. 1 para. 4(3) words substituted by [S.I. 2008/383 reg. 5\(2\)\(f\)](#)
- Sch. 1 para. 4(3) words substituted by [S.I. 2013/417 reg. 11\(2\)\(b\)\(iii\)](#)
- Sch. 1 para. 9(b) words substituted by [S.I. 2013/417 reg. 11\(3\)\(b\)](#)
- Sch. 1 para. 11(1)(a)(ii) words substituted by [S.I. 2013/417 reg. 11\(4\)\(b\)](#)
- Sch. 1 para. 2(2) words substituted by [S.I. 2013/417 reg. 12\(f\)](#)
- Sch. 1 para. 4(3) words substituted by [S.I. 2013/417 reg. 12\(f\)](#)
- Sch. 1 para. 3 words substituted by [S.I. 2023/518 reg. 4\(b\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 3A inserted by [S.I. 2008/383 reg. 10](#)
- reg. 8(1)(a) words substituted by [S.I. 2013/417 reg. 6\(a\)](#)
- reg. 8(1)(b) words substituted by [S.I. 2013/417 reg. 6\(b\)](#)
- reg. 8(1)(c) words substituted by [S.I. 2013/417 reg. 6\(b\)](#)
- reg. 8(1)(d) words substituted by [S.I. 2013/417 reg. 6\(b\)](#)
- reg. 10(2)-(4) substituted for reg. 10(2) by [S.I. 2008/383 reg. 9](#)
- reg. 12A inserted by [S.I. 2013/417 reg. 7](#)
- reg. 12A(2) words substituted by [S.I. 2016/992 Sch. para. 27\(b\)](#)
- reg. 12A(2) words substituted by [S.I. 2023/424 Sch. para. 37\(2\)\(b\)](#)
- reg. 15A-15E inserted by [S.I. 2008/383 reg. 8](#)
- reg. 15A(1) words substituted by [S.I. 2013/417 reg. 9](#)
- reg. 15B(1) words substituted by [S.I. 2013/417 reg. 10](#)