

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

STATUTORY INSTRUMENTS

2004 No. 3256

INCOME TAX

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

<i>Made</i>	- - - -	<i>9th December 2004</i>
<i>Laid before the House of Commons</i>	- - - -	<i>10th December 2004</i>
<i>Coming into force</i>	- -	<i>1st January 2005</i>

The Treasury, in exercise of the powers conferred upon them by sections 84A(3A), 85B(3)(a) and 85B(5)(b) of the Finance Act 1996(1) and paragraphs 16(3A), 17C(1) and 17C(3)(b) of Schedule 26 to the Finance Act 2002(2) make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 and shall come into force on 1st January 2005.

(2) These Regulations have effect in relation to periods of account beginning on or after 1st January 2005.

Commencement Information

II Reg. 1 in force at 1.1.2005, see [reg. 1\(1\)](#)

Interpretation

2.—(1) In these Regulations—

F1
...

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- (1) 1996 c. 8. Section 84A was inserted by paragraph 3 of Part 1 of Schedule 23 to the Finance Act 2002 (c. 23) and sub-section (3A) was substituted by paragraph 2(2) of Schedule 10 to the Finance Act 2004 (c. 12) (“the 2004 Act”). Sections 85B was substituted and inserted by paragraph 3 of Schedule 10 to the 2004 Act.
- (2) 2002 c. 23. Paragraph 16(3A) was substituted by paragraph 48(2), and paragraphs 17C(1) and 17C(3)(b) were substituted by paragraph 50, of Part 2 of Schedule 10 to the 2004 Act.

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[^{F2}“CTA 2009” means the Corporation Tax Act 2009;

“CTA 2010 means the Corporation Tax Act 2010;]

[^{F3}“deferred shares” has the same meaning as in the Building Societies Act 1986;]

“derivative contract” has the same meaning as in [^{F4}Part 7 of CTA 2009];

[^{F5}“exchange gain or loss” has the same meaning as in [^{F6}section 475 of CTA 2009];]

^{F7} ...

[^{F8}“fair value profit or loss” means the profit or loss brought into account in relation to a derivative contract or an asset or liability representing a loan relationship where for the period in question—

- (a) the derivative contract or asset or liability representing a loan relationship is measured at fair value, or
- (b) the derivative contract or asset or liability representing a loan relationship is a hedged item in a designated fair value hedge and the carrying value of the hedged item is adjusted for changes in fair value attributable to the hedged risk;]

[^{F9}“hybrid capital instrument” has the meaning given by section 475C of CTA 2009;]

[^{F10}“loan relationship” has the same meaning as in [^{F11}section 302 of CTA 2009];]

[^{F10}“[^{F12}a section 614 or 615 credit or debit]” means the credit or debit to be brought into account in accordance with [^{F13}section 614 or 615 of CTA 2009];]

[^{F10}“a prior period adjustment credit or debit” means so much of any credit or debit as represents a prior period adjustment taken into account by virtue of [^{F14}section 597(1)(b) of CTA 2009] as a result of a change of accounting basis;]

^{F15} ...

“underlying subject matter” has the same meaning as in [^{F16}Part 7 of CTA 2009].

(2) In these Regulations—

“for accounting purposes” means for the purposes of accounts drawn up in accordance with generally accepted accounting practice;

“generally accepted accounting practice” has the meaning given in [^{F17}section 1127 of CTA 2010]; and

“amortised cost” [^{F18}, consolidated accounts], “designated”, “effective hedge”, “effective interest method”, [^{F19}“fair value hedge”,] “firm commitment”, “forecast transaction”, “foreign operation” [^{F20}, fair value, items of other comprehensive income] and “net investment in a foreign operation” have the same meaning as for accounting purposes.

(3) In these Regulations any reference to an asset which is a ship or aircraft includes a reference to a contract—

- (a) to which section 67 of the Capital Allowances Act 2001(3) applies; and
- (b) which relates to plant or machinery which is a ship or aircraft.

[^{F21}(3A) For the purposes of these Regulations, a liability representing a loan relationship or a derivative contract is treated as matched with shares, ships or aircraft from the date that, and to the extent that, either condition 1 or 2 of regulation 3(3) or 4(3) are satisfied.]

(4) In these Regulations—

- (a) any reference to a hedging instrument includes a reference to part of an instrument; and
- (b) any reference to a hedged item includes a reference to part of a hedged item.

(5) For the purposes of these Regulations, a company has a hedging relationship between a derivative contract or a liability representing a loan relationship on the one hand (“the hedging instrument”) and an asset, liability, receipt [^{F22}, expense, forecast transaction or firm commitment] on the other (“the hedged item”) if and to the extent that—

- (a) the hedging instrument and the hedged item are designated by the company as a hedge; or
- (b) in any other case the hedging instrument is intended to act as a hedge of—
 - (i) the exposure to changes in fair value of a hedged item which is a recognised asset or liability or an unrecognised firm commitment or an identified portion of such an asset, liability or commitment that is attributable to a particular risk and could affect profit or loss of the company;
 - (ii) the exposure to variability in cash flows that is attributable to a particular risk associated with a hedged item that is a recognised asset or liability or a forecast transaction and could affect profit or loss of the company; or
 - (iii) a net investment in a foreign operation of the company.

[^{F23}(6) For the purposes of regulations 3 to 5, where an asset referred to is shares in a company, the asset comprises all the shares held in that company whenever acquired.]

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) omitted (1.1.2014 with effect in accordance with [reg. 1\(2\)\(3\)](#) of the amending S.I.) by virtue of [The Taxation of Regulatory Capital Securities Regulations 2013](#) (S.I. 2013/3209), [regs. 1\(1\)](#), [10\(2\)\(a\)](#)
- F2** Words in [reg. 2\(1\)](#) inserted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014](#) (S.I. 2014/3188), [regs. 1\(1\)](#), [8\(1\)\(a\)](#)
- F3** Words in [reg. 2\(1\)](#) inserted (21.11.2013 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2013](#) (S.I. 2013/2781), [regs. 1\(1\)](#), [2\(2\)](#)
- F4** Words in [reg. 2\(1\)](#) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014](#) (S.I. 2014/3188), [regs. 1\(1\)](#), [8\(1\)\(b\)](#)
- F5** Words in [reg. 2\(1\)](#) substituted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005](#) (S.I. 2005/2012), [regs. 1\(1\)](#), [3\(a\)](#)
- F6** Words in [reg. 2\(1\)](#) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014](#) (S.I. 2014/3188), [regs. 1\(1\)](#), [8\(1\)\(c\)](#)
- F7** Words in [reg. 2\(1\)](#) omitted (31.12.2015 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015](#) (S.I. 2015/1961), [regs. 1\(1\)](#), [3\(a\)](#)
- F8** Words in [reg. 2\(1\)](#) substituted (31.12.2015 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015](#) (S.I. 2015/1961), [regs. 1\(1\)](#), [3\(b\)](#)
- F9** Words in [reg. 2\(1\)](#) inserted (with effect in accordance with [Sch. 20 para. 10\(b\)](#) of the amending Act) by [Finance Act 2019](#) (c. 1), [Sch. 20 para. 9\(2\)\(a\)](#)
- F10** Words in [reg. 2\(1\)](#) inserted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005](#) (S.I. 2005/2012), [regs. 1\(1\)](#), [3\(b\)](#)

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- F11** Words in reg. 2(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(1)(e)**
- F12** Words in reg. 2(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(1)(f)(i)**
- F13** Words in reg. 2(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(1)(f)(ii)**
- F14** Words in reg. 2(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(1)(g)**
- F15** Words in reg. 2(1) omitted (with effect in accordance with Sch. 20 para. 10(b) of the amending Act) by virtue of Finance Act 2019 (c. 1), **Sch. 20 para. 9(2)(b)**
- F16** Words in reg. 2(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(1)(h)**
- F17** Words in reg. 2(2) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(2)(a)**
- F18** Words in reg. 2(2) inserted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(2)(a)**
- F19** Words in reg. 2(2) inserted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(2)(b)**
- F20** Words in reg. 2(2) inserted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **3(c)**
- F21** Reg. 2(3A) inserted (6.12.2011 at 11.45 a.m. with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 (S.I. 2011/2912), regs. 1(1), **3**
- F22** Words in reg. 2(5) substituted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022 (S.I. 2022/239), regs. 1(1), **2(2)**
- F23** Reg. 2(6) inserted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(2)(b)**

Modifications etc. (not altering text)

- C1** Reg. 2(5) applied (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by 2010 c. 8, s. **421(3)** (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 1 (with Sch. 5 paras. 27, **32-34**))

Commencement Information

- I2** Reg. 2 in force at 1.1.2005, see **reg. 1(1)**

Exchange gains or losses arising from liabilities or assets hedging shares etc.

3.—(1) For the purposes of [F24section 328(4) of CTA 2009] there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to a liability representing a loan relationship of the company which is matched with the whole or part of any shares, ships or aircraft.

[^{F25}(1ZA) But where the matched shares, ships or aircraft are matched after the company became party to the loan relationship, paragraph (1) only applies to a just and reasonable proportion of any exchange gain or loss having regard to—

- (a) the fraction of the accounting period for which the shares, ships or aircraft are matched with the loan relationship,
- (b) the fraction of the accounting period for which the company was party to the loan relationship, and
- (c) fluctuations in exchange rates during the accounting period.]

^{F26}(1A)

(2) This regulation does not apply if movements in the fair value [^{F27}, or profits or losses arising on the disposal,] of any shares, ships or aircraft which are an asset falling within regulation 3(1) are brought into account by the company in computing, for the purposes of corporation tax, the profits of a trade carried on by it which consists of or includes dealing in shares, ships or aircraft.

[^{F28}(3) Shares, ships or aircraft are matched to the greatest possible extent with—

- (a) the liability representing the loan relationship designated as a hedge if condition 1 is satisfied;
- (b) subject to paragraph (a), the liability representing the loan relationship referred to in condition 2 if that condition is satisfied;]

^{F29} ...

Condition [^{F30}1]

The condition is that ^{F31}... the shares, ships or aircraft are a hedged item under a designated hedge of exchange rate risk in which the liability is the hedging instrument.

Condition [^{F32}2]

The condition is that the currency in which the liability is expressed is such that the company [^{F33}intends], by entering into [^{F34}[^{F35}or] continuing to be subject to] that liability, ^{F36}... to eliminate or substantially reduce the economic risk of holding the asset, or part of the asset, which is attributable to fluctuations in exchange rates.

(4) If [^{F37}condition 2] applies, a liability is matched with an asset only to the extent that the carrying value of the liability ^{F38}... does not exceed the unmatched carrying value of the asset at [^{F39}the relevant time].

(5) For the purposes of [^{F40}section 328(4) of CTA 2009] there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to an asset representing a loan relationship of the company which is matched with the whole or part [^{F41}of—

- (a) any share capital of the company,
- (b) in relation to a building society, any deferred shares issued by the building society to the extent that they are accounted for as equity instruments in accordance with generally accepted accounting practice, or
- (c) [^{F42}a hybrid capital instrument] issued by the company to the extent that it is accounted for as an equity instrument in accordance with generally accepted accounting practice.]

(6) An asset is matched with share capital [^{F43}in particular where] for the accounting period of the company immediately preceding the first accounting period to which these Regulations apply—

- (a) exchange gains and losses on the asset were taken to a reserve; and
- (b) set off there against exchange gains and losses on the share capital.

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Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

(7) In this regulation—

“carrying value” means, in relation to a liability, the [^{F44}relevant value] of that liability; and
 “unmatched carrying value” means, in relation to an asset, an amount equal to the value as shown in the company’s accounts to the extent that that amount has not previously been matched in accordance with this regulation or regulation 4.

Textual Amendments

- F24** Words in reg. 3(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(3)**
- F25** Reg. 3(1ZA) inserted (6.12.2011 at 11.45 a.m. with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 (S.I. 2011/2912), regs. 1(1), **4(1)**
- F26** Reg. 3(1A) omitted (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **3**
- F27** Words in reg. 3(2) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(3)**
- F28** Words in reg. 3(3) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(a)**
- F29** Words in reg. 3(3) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(b)**
- F30** Reg. 3(3): Condition 2 renumbered as Condition 1 (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(d)(i)**
- F31** Words in reg. 3(3) omitted (6.12.2011 at 11.45 a.m. with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 (S.I. 2011/2912), regs. 1(1), **4(2)**
- F32** Reg. 3(3): Condition 3 renumbered as Condition 2 (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(d)(ii)**
- F33** Word in reg. 3(3) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(c)(i)**
- F34** Words in reg. 3(3) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(c)(ii)**
- F35** Word in reg. 3(3) substituted (1.4.2011 in relation to accounting periods beginning on or after that date) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2011 (S.I. 2011/698), regs. 1, **3**
- F36** Words in reg. 3(3) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(4)(c)(iii)**

- F37** Words in reg. 3(4) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **4(5)(a)**
- F38** Words in reg. 3(4) omitted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(3)(a)**
- F39** Words in reg. 3(4) substituted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(3)(b)**
- F40** Words in reg. 3(5) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(3)**
- F41** Words in reg. 3(5) substituted (21.11.2013 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2013 (S.I. 2013/2781), regs. 1(1), **2(3)**
- F42** Words in reg. 3(5)(c) substituted (with effect in accordance with Sch. 20 para. 10(b) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 20 para. 9(3)**
- F43** Words in reg. 3(6) substituted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **4**
- F44** Words in reg. 3(7) substituted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **3**

Commencement Information

- I3** Reg. 3 in force at 1.1.2005, see **reg. 1(1)**

Exchange gains or losses arising from derivative contracts hedging shares etc.

4.—(1) For the purposes of [F45]section 606(4) and 598(1)(a) of CTA 2009] there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to a derivative contract of the company which is matched with the whole or part of any shares, ships or aircraft.

[F46(1A) But where the matched shares, ships or aircraft are matched after the company became party to the derivative contract, paragraph (1) only applies to a just and reasonable proportion of any exchange gain or loss having regard to—

- (a) the fraction of the accounting period for which the shares, ships or aircraft are matched with the derivative contract,
- (b) the fraction of the accounting period for which the company was party to the derivative contract, and
- (c) fluctuations in exchange rates during the period.]

(2) This regulation does not apply if movements in the fair value [F47, or profits or losses arising on the disposal,] of any shares, ships or aircraft which are an asset falling within regulation 4(1) are brought into account by the company in computing, for the purposes of corporation tax, the profits of a trade carried on by it which consists of or includes dealing in shares, ships or aircraft.

(3) [F48]Shares, ships or aircraft are matched to the greatest possible extent with—]

- (a) the derivative contract designated as a hedge if condition 1 is satisfied;
- (b) subject to paragraph (a), the derivative contract referred to in condition 2 if that condition is satisfied.

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Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

F49 ...

Condition [F50 1]

The condition is that F51 ... the shares, ships or aircraft are a hedged item under a designated hedge of exchange rate risk in which the derivative contract is the hedging instrument.

Condition [F52 2]

The condition is that the underlying subject matter of the derivative contract is such that the company [F53 intends], by entering into [F54 [F55 or] continuing to be party to] that contract, F56 ... to eliminate or substantially reduce the economic risk of holding the asset, or part of the asset, which is attributable to fluctuations in exchange rates.

(4) If [F57 condition 2] applies, a derivative contract is matched with an asset only to the extent that the [F58 value of the obligation under] the derivative contract F59 ... does not exceed the unmatched carrying value of the asset at [F60 the relevant time].

[F61 (4A) For the purposes of [F62 section 606(4) of CTA 2009] there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to a derivative contract of the company which is matched with the whole or part [F63 of—

- (a) any share capital of the company,
- (b) in relation to a building society, any deferred shares issued by the building society to the extent that they are accounted for as equity instruments in accordance with generally accepted accounting practice, or
- (c) [F64 a hybrid capital instrument] issued by the company to the extent that it is accounted for as an equity instrument in accordance with generally accepted accounting practice.]

(4B) A derivative contract is matched with share capital in particular where for the accounting period of the company immediately preceding the first accounting period beginning on or after 1st January 2005—

- (a) exchange gains and losses on the derivative contract were taken to a reserve; and
- (b) set off there against exchange gains and losses on the share capital.]

[F65 (4C) This regulation does not apply to amounts in relation to a derivative contract which are excluded amounts under regulation 5ZA.]

(5) In this regulation—

F66 ...

“unmatched carrying value” means, in relation to an asset, an amount equal to the [F67 relevant value] to the extent that that amount has not previously been matched in accordance with this regulation or regulation 3.

[F68 “the value of the obligation under the derivative contract” means the value of the obligation of the company to pay in exchange for one currency an amount of a second currency and includes any notional obligation to pay an amount of currency in respect of a contract for differences.]

Textual Amendments

F45 Words in reg. 4(1) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(4)**

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- F46** Reg. 4(1A) inserted (6.12.2011 at 11.45 a.m. with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 (S.I. 2011/2912), regs. 1(1), **5(1)**
- F47** Words in reg. 4(2) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(2)**
- F48** Words in reg. 4(3) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(a)**
- F49** Words in reg. 4(3) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(b)**
- F50** Reg. 4(3): Condition 2 renumbered as Condition 1 (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(d)(i)**
- F51** Words in reg. 4(3) omitted (6.12.2011 at 11.45 a.m. with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2011 (S.I. 2011/2912), regs. 1(1), **5(2)**
- F52** Reg. 4(3): Condition 3 renumbered as Condition 2 (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(d)(ii)**
- F53** Word in reg. 4(3) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(c)(i)**
- F54** Words in reg. 4(3) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(c)(ii)**
- F55** Word in reg. 4(3) substituted (1.4.2011 in relation to accounting periods beginning on or after that date) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2011 (S.I. 2011/698), regs. 1, **4**
- F56** Words in reg. 4(3) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(3)(c)(iii)**
- F57** Words in reg. 4(4) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(4)(a)**
- F58** Words in reg. 4(4) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(4)(b)**
- F59** Words in reg. 4(4) omitted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(4)(a)**
- F60** Words in reg. 4(4) substituted (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(4)(b)**
- F61** Reg. 4(4A)(4B) inserted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **5**

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- F62** Words in reg. 4(4A) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(5)**
- F63** Words in reg. 4(4A) substituted (21.11.2013 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2013 (S.I. 2013/2781), regs. 1(1), **2(3)**
- F64** Words in reg. 4(4A)(c) substituted (with effect in accordance with Sch. 20 para. 10(b) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 20 para. 9(4)**
- F65** Reg. 4(4C) inserted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022 (S.I. 2022/239), regs. 1(1), **2(3)**
- F66** Words in reg. 4(5) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(5)(a)**
- F67** Words in reg. 4(5) substituted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **3**
- F68** Words in reg. 4(5) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **5(5)(b)**

Commencement Information

- I4** Reg. 4 in force at 1.1.2005, see **reg. 1(1)**

[F69] Relevant value

4A.—(1) For the purposes of regulations 3(7) and 4(5), “relevant value” means—

- (a) in relation to shares held by the company in another company (“Company A”), where the company elects, the higher of—
- (i) the net asset value underlying the shares in Company A, and
 - (ii) the value shown in the accounts of the company; and
- (b) in any other case, the value shown in the accounts of the company.

(2) In paragraph (1)(a)(i) the net asset value underlying the shares in Company A is an amount equal to—

- (a) the value of the assets, less
- (b) the value of the liabilities

of Company A and any direct or indirect subsidiary of Company A denominated in the relevant currency.

This is subject to paragraph (6).

(3) The value of assets and liabilities referred to in paragraph (2) is the value at the relevant time shown in—

- (a) a balance sheet of Company A, or
- (b) where Company A has a direct or indirect subsidiary, a notional consolidated balance sheet of Company A prepared in the relevant currency.

(4) For the purposes of paragraph (3) in determining whether an asset or liability would be recognised in the balance sheet or notional consolidated balance sheet and, if so recognised the value that would be accorded to it, regard shall be had to the accounting treatment of the asset or liability—

- (a) in any consolidated accounts prepared by the company, or

- (b) where the company does not prepare consolidated accounts, in any consolidated accounts prepared by a company that directly or indirectly controls the company.
- (5) Nothing in paragraphs (3) or (4) shall prevent an asset or liability, which might be eliminated in the preparation of any consolidated accounts, from being taken into account in paragraph (2).
- (6) If the company does not directly hold the entire issued share capital in Company A, the net asset value underlying the shares in Company A shall be reduced by such amount as is just and reasonable having regard to—
 - (a) the proportion of the issued shares held by the company, and
 - (b) where there is more than one class of share, the rights attached to the shares held by the company.
- [^{F70}(7) An election under paragraph (1)—
 - (a) must be made by the company by notice in writing to an officer of Revenue and Customs, and
 - (b) must specify the review period.
- (7A) An election—
 - (a) applies to all the shareholdings held by the company which are matched in accordance with regulation 3(3)(b) or 4(3)(b), and
 - (b) has effect from a date specified in the notice which must be later than the date the notice is given.
- (7B) An election may be amended or revoked by notice in writing to an officer of Revenue and Customs—
 - (a) before the election has effect, or
 - (b) with effect from a date specified in the notice which must be—
 - (i) later than the date the notice is given, and
 - (ii) at least 12 months after the election was made.
- (7C) Where the date specified in a notice under paragraph (7) or (7B) is not the first day of an accounting period so much of the period as falls before that date and so much of the period as falls on or after that date are treated as separate accounting periods.]
- ^{F71}(8)
- ^{F71}(8A)
- ^{F71}(8B)
- [^{F72}(9)] In this regulation—
 - “relevant currency” means the currency which, as a result of exchange rate fluctuations, gives rise to the economic risk referred to in regulations 3(3) and 4(3);
 - “control” has the meaning given in [^{F73}section 1124 of CTA 2010].]

Textual Amendments

- F69** Regs. 4A-4C substituted for reg. 4A (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007 (S.I. 2007/3431), regs. 1(1), **2(5)**
- F70** Reg. 4A(7)-(7C) substituted for reg. 4A(7) (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **4(2)**

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the *The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004*. (See end of Document for details)

- F71** Reg. 4A(8)-(8B) omitted (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by virtue of *The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014* (S.I. 2014/3188), regs. 1(1), **4(3)**
- F72** Second reg. 4A(6) renumbered as reg. 4A(9) (1.4.2011 in relation to accounting periods beginning on or after that date) by *The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2011* (S.I. 2011/698), regs. 1, **5(4)**
- F73** Words in reg. 4A(9) substituted (31.12.2014) by *The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014* (S.I. 2014/3188), regs. 1(1), **8(6)**

[^{F69}Relevant time

4B.—(1) For the purposes of regulations 3(4), 4(4) and 4A(“relevant time” is determined as follows.

(2) In a case within regulation 4A(1)(a) (relevant value determined by net asset value) the relevant time is the start of each review period in an accounting period.

(3) In a case within regulation 4A(1)(b) (relevant value determined by accounts value), the relevant time is the time when the liability or contract is entered into or, if later, when the asset is acquired.]

Textual Amendments

- F69** Regs. 4A-4C substituted for reg. 4A (27.12.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by *The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2007* (S.I. 2007/3431), regs. 1(1), **2(5)**

[^{F74}Review period

4C.—(1) For the purposes of [^{F75}regulations 4A(7)(b)] and 4B(2), a review period is a period, or one of a series of successive periods, of a length specified by a company making an election in accordance with regulation 4A(1)(a).

This is subject to the provisions of this regulation.

(2) A review period, or where more than one in an accounting period the first review period in that accounting period, begins on the first day of the accounting period or, if later, the date that a liability or derivative contract first becomes matched with shares in accordance with regulation 3(3)(b) or 4(3)(b).

(3) A review period, or where more than one in an accounting period the last review period in that accounting period, must end on the last day of the accounting period.

(4) If a company has matched shares in accordance with regulation 3(3)(b) or 4(3)(b) (“the first asset”), the first review period in relation to shares which are subsequently matched—

- (a) begins when the subsequent matching occurs, and
- (b) ends at the same time as the review period which is current in relation to the first asset when the subsequent matching occurs.

(5) If during a review period (“the current period”) there is a significant variation in the net asset value underlying shares which have been matched in accordance with regulation 3(3)(b) or 4(3)(b), there shall be a new review period in relation to those shares which—

- (a) begins on the day that any variation in the net asset value becomes a significant variation, and

(b) ends at the same time as the current period.

(6) In paragraph (5) “significant variation” means an increase or decrease of 10% or more in the net asset value underlying the matched shares.

(7) In this regulation the net asset value underlying shares shall be determined in accordance with regulation 4A(2).]

Textual Amendments

F74 Reg. 4C substituted (1.4.2011 in relation to accounting periods beginning on or after that date) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2011 (S.I. 2011/698), regs. 1, 6

F75 Words in reg. 4C(1) substituted (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), 5

Regulations 3 and 4: supplementary

5.—(1) Where in any accounting period—

(a) a company holds more than one asset in relation to which there are amounts of exchange gains and losses falling within regulations 3 or 4; and

(b) the currency—

(i) in which the assets are denominated and the liability [^{F76}mentioned in regulation 3(1)] expressed; or

(ii) which is the underlying subject matter of the derivative contract [^{F77}mentioned in regulation 4(1)] ,

is the same currency, ^{F78}... [^{F79}the extent to which an asset is matched is determined in accordance with the following rules].

^{F80}Rule 1

Liabilities and contracts are regarded as matched to the greatest possible extent with assets which are ships or aircraft.]

Rule 2

Subject to Rule 1, liabilities and contracts are regarded as matched to the greatest possible extent with assets on the disposal of which a chargeable gain would accrue [^{F81}if the disposal were made on a date falling more than 12 months after the date of acquisition of the asset].

Rule 3

Subject to Rules 1 and 2, liabilities [^{F82}and contracts] are regarded as matched with assets on a disposal of which no chargeable gain would be treated as accruing by virtue of Part 1 of Schedule 7AC to the Taxation of Chargeable Gains Act 1992(4)^{F83}....

(2) If—

(a) part only of a liability falling within the third condition in regulation 3, or

(b) part only of a contract falling within the third condition in regulation 4,

(4) 1992 c. 12. Part 1 was inserted by paragraph 1 of Part 1 of Schedule 8 to the Finance Act 2002.

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

could reasonably be expected to eliminate or substantially reduce the economic risk of holding the asset which is attributable to fluctuations in exchange rates, the liability or contract is to be treated as being matched with a corresponding amount of value of an asset.

(3) For the purposes of paragraph (1), a currency in which a liability is expressed or which is the underlying subject matter of a derivative contract, is to be treated, if it is not the case, as the same currency in which an asset is denominated if—

- (a) borrowing in that currency, or
- (b) the obligation to deliver that currency,

could reasonably be expected to eliminate or substantially reduce the economic risk of holding the asset, or part of the asset, which is attributable to fluctuations in exchange rates.

(4) Where regulation 3 or [^{F84}section 328(3) of CTA 2009] applies to a company in an accounting period in relation to a liability representing a loan relationship there is prescribed, for the purposes of regulation 3 or [^{F85}section 328(4)] of that Act, an exchange gain or loss treated by virtue of [^{F86}section 192(1) of the Taxation (International and Other Provisions) Act 2010] as arising in that accounting period to another company in relation to the same loan relationship.

Textual Amendments

- F76** Words in [reg. 5\(1\)\(b\)\(i\)](#) inserted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(2\)\(a\)](#)
- F77** Words in [reg. 5\(1\)\(b\)\(ii\)](#) inserted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(2\)\(b\)](#)
- F78** Words in [reg. 5\(1\)\(b\)](#) omitted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(2\)\(c\)](#)
- F79** Words in [reg. 5\(1\)](#) added (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(3\)](#)
- F80** Words in [reg. 5\(1\)](#) substituted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(4\)](#)
- F81** Words in [reg. 5\(1\)](#) inserted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(5\)](#)
- F82** Words in [reg. 5\(1\)](#) inserted (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(6\)\(a\)](#)
- F83** Words in [reg. 5\(1\)](#) revoked (11.8.2005 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), [regs. 1\(1\)](#), [6\(6\)\(b\)](#)
- F84** Words in [reg. 5\(4\)](#) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), [regs. 1\(1\)](#), [8\(7\)\(a\)](#)
- F85** Words in [reg. 5\(4\)](#) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), [regs. 1\(1\)](#), [8\(7\)\(b\)](#)

F86 Words in reg. 5(4) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), 8(7)(c)

Commencement Information

I5 Reg. 5 in force at 1.1.2005, see reg. 1(1)

[^{F87}Derivatives hedging acquisitions and disposals of shareholdings

5ZA.—(1) For the purposes of sections 598(1)(a) and 606(4) of CTA 2009, any relevant amount arising to a company in relation to a derivative contract is an excluded amount in an accounting period if and to the extent that—

- (a) the underlying subject matter of the contract includes currency, and
- (b) there is a relevant hedging relationship between the derivative contract (or part of the derivative contract) and a forecast transaction or firm commitment (“the hedged item”) relating to the anticipated future acquisition or disposal of a relevant shareholding (“the anticipated transaction”).

(2) There is a relevant hedging relationship if, and to the extent that—

- (a) the contract (or part of the contract) is intended to hedge the economic risk to the company in relation to—
 - (i) the anticipated acquisition cost, together with any incidental costs of the acquisition, of the anticipated transaction,
 - (ii) the disposal proceeds of, and any relevant dividend in relation to the relevant shareholding paid as part of, the anticipated transaction, or
 - (iii) where paragraph (3) applies, the subscription of shares in, or entering into a creditor relationship with, another company for the purpose of financing the anticipated acquisition cost, together with any incidental costs of the acquisition, of the anticipated transaction, and
- (b) the economic risk is attributable to fluctuations in exchange rates between the currency in which the forecast transaction or firm commitment is denominated and the company’s relevant currency or the currency in which the debt or equity financing relating to the anticipated transaction is denominated.

(3) This paragraph applies where the company entering into the hedging relationship has a substantial shareholding in the company making the anticipated acquisition or will have a substantial shareholding in that company before the anticipated acquisition.

(4) In paragraph (1)—

- (a) “relevant amount” means—
 - (i) where the derivative contract is an option or a deal contingent forward contract, any profit or loss arising to the company in relation to the derivative contract, and
 - (ii) in any other case, any exchange gain or loss arising to the company in relation to the derivative contract;
- (b) “relevant shareholding” means—
 - (i) except where paragraph (ii) applies, a shareholding in another company which is, at the date the derivative contract is entered into, a substantial shareholding, and
 - (ii) where the company entering into the relevant hedging relationship is a qualifying asset holding company, a holding of qualifying shares within paragraph 53 of Schedule 2 to the Finance Act 2022.

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

(5) In paragraph (2)(a)(ii), a dividend is a “relevant dividend” if it is exempt from corporation tax under Part 9A of CTA 2009 or would be exempt apart from an election under section 931R of CTA 2009.

(6) If there is a hedging relationship between part of the derivative contract and the hedged item, the proportion of the relevant amount in relation to the contract that is an excluded amount must be determined on a just and reasonable basis having regard to the proportion of the contract which is in the relevant hedging relationship.

(7) This regulation does not apply—

(a) to a derivative contract which is entered into with a person (“A”) to whom the company is connected unless—

(i) a person who is connected to the company enters into a derivative contract with a person who is not connected with the company, and

(ii) that contract confers rights or imposes liabilities which are equivalent to those of A under the contract which A entered with the company,

(b) to a derivative contract that meets the accounting condition in section 579(1)(b) of CTA 2009,

(c) where the anticipated transaction is between connected companies, or

(d) where the company enters into a hedging relationship as part of a trade that consists of or includes dealing in shares or entering into creditor relationships.

(8) Section 466 of CTA 2009 (companies connected for an accounting period) applies for the purposes of paragraph (7)(c).

(9) In this regulation—

“creditor relationship” has the same meaning as in section 302(5) of CTA 2009;

“deal contingent forward contract” means a derivative contract which is contingent on completion of the anticipated transaction;

“incidental costs” in relation to an acquisition mean incidental costs allowable under section 38(2) of TCGA 1992;

“qualifying asset holding company” is defined in section 14 of, and Schedule 2 to, the Finance Act 2022;

“relevant currency” has the same meaning as in section 9C(2) and (3) of CTA 2010;

“substantial shareholding” has the same meaning as in paragraph 8 of Schedule 7AC to TCGA 1992, but for the purposes of paragraph (3) paragraph 8(1) and (1)(a) of Schedule 7AC are to be read as if after “it”, in the first two places it appears, there were inserted “directly or indirectly” in both places.]

Textual Amendments

F87 [Reg. 5ZA](#) inserted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022 \(S.I. 2022/239\)](#), regs. 1(1), 2(4)

[^{F88}Net investment hedge of foreign operations

5A.—(1) For the purposes of sections 328(4) and 606(4) of CTA 2009 there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to a liability representing a loan relationship or derivative contract of the company where—

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- (a) the loan relationship or derivative contract is a designated hedge of a net investment in a foreign operation of the company, and
- (b) amounts representing exchange gains or losses in respect of the loan relationship or derivative contract have, in accordance with generally accepted accounting practice, been recognised in the company's accounts as items of other comprehensive income.

(2) In determining what amounts fall within paragraph (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.

(3) But if the company's accounts for the period are, in accordance with generally accepted accounting practice, drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in paragraph (2), that different assumption applies in determining what amounts fall within paragraph (1)(b) at the time in question.]

Textual Amendments

F88 Reg. 5A inserted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), 4

Application of regulations 7, 8 and 9 in relation to derivative contracts where fair value accounting applies

[^{F89}6.—(1) Regulation 7, 8 or 9 apply in relation to a derivative contract (which satisfies the conditions in regulation 7(1)(a), 8(1)(a) or 9(1), as the case may be) if—

- (a) an election under regulation 6A has effect in relation to the contract,
- (b) the contract or part of the contract is a designated fair value hedge,
- (c) the hedged item is a loan relationship in relation to which the company uses fair value accounting, or
- (d) the contract forms part of an arrangement the main purpose, or one of the main purposes, of which is to obtain a tax advantage in relation to that contract that would not arise if regulation 7, 8 or 9 applies.

(2) In paragraph (1)(d)—

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“tax advantage” has the meaning given in section 1139 of CTA 2010.]

Textual Amendments

F89 Regs. 6-6B substituted for reg. 6 (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), 6 (with reg. 9)

[^{F89}Election to apply regulations 7, 8 or 9

6A.—(1) An election for the purposes of regulation 6(1)(a) must be made by a company by notice in writing to an officer of Revenue and Customs and applies regulations 7, 8 and 9 unless the notice states which of those regulations apply to the company's derivative contracts.

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- (2) The election has effect—
- (a) in the case of a new adopter where the election is made on or before the later of the dates set out in paragraph (3), in relation to derivative contracts held in the first relevant period and any subsequent period, and
 - (b) in any other case, in relation to derivative contracts entered into on or after a date specified in the election which must be later than the date the election is made, and in the case of a new adopter cannot be before two years after the end of the first relevant period.
- (3) The dates referred to in paragraph (2)(a) are—
- (a) the date six months after the start of the first relevant period,
 - (b) the date six months after the date the company first enters into a relevant derivative contract [^{F90}which the company measures at fair value], and
 - (c) in the case of a company which is not a qualifying company for the purposes of Schedule 46 to the Finance Act 2009, the date 12 months after the end of the first relevant period.
- (4) An election may be amended or revoked by notice in writing to an officer of Revenue and Customs—
- (a) in the case of an election made by a new adopter within paragraph (2)(a), before the later of the applicable dates set out in paragraph (3), or
 - (b) [^{F91}either] —
 - (i) before the election has effect, or
 - (ii) after the election has effect, in relation to derivative contracts entered into on or after a date specified in the notice which must be later than the date the notice is given, and in the case of a new adopter cannot be before two years after the end of the first relevant period.
- (5) For the purposes of this regulation—
- (a) a “new adopter” is a company which [^{F92}measures a relevant derivative contract at fair value for the first time on or after 1st January 2015],
 - (b) “the first relevant period” is the first accounting period in which a company [^{F93}measures a relevant derivative contract at fair value [^{F94}(but see paragraph (6))]],
 - (c) a “relevant derivative contract” is a derivative contract which satisfies the conditions in regulation 7(1)(a), 8(1)(a) or 9(1).
- [
- ^{F95}(6) For the purposes of the definition of “the first relevant period” an accounting period of a company is to be ignored if—
- (a) the accounting period begins solely as a result of a disposal of an asset by the company, and
 - (b) any gain accruing to the company on the disposal would be chargeable to corporation tax as a result of section 2B(4) of the Taxation of Chargeable Gains Act 1992.]]

Textual Amendments

F89 Regs. 6-6B substituted for reg. 6 (31.12.2014 with effect in accordance with reg. 1(2)(a)(3) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **6** (with reg. 9)

F90 Words in reg. 6A(3)(b) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **5(a)**

- F91** Word in [reg. 6A\(4\)\(b\)](#) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **5(b)**
- F92** Words in [reg. 6A\(5\)\(a\)](#) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **5(c)(i)**
- F93** Words in [reg. 6A\(5\)\(b\)](#) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **5(c)(ii)**
- F94** Words in [reg. 6A\(5\)\(b\)](#) inserted (with effect in accordance with Sch. 6 para. 11 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **Sch. 6 para. 8(a)**
- F95** [Reg. 6A\(6\)](#) inserted (with effect in accordance with Sch. 6 para. 11 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **Sch. 6 para. 8(b)**

[^{F96}Effect of elections on group member replacing another as party to derivative contract: regulations 7 and 8

6B.—(1) This regulation applies if—

- (a) one company replaces another as party to a derivative contract in relation to which regulation 7 or 8 applies, in circumstances in which section 625 of CTA 2009 applies or would apply but for section 628 of that Act,
- (b) the transferee (within the meaning of section 625 of CTA 2009) meets the conditions in regulation 7(1)(a)(i) and (ii) or 8(1)(a)(i) and (ii), as the case may be, in relation to the contract, and
- (c) the hedged item in relation to the derivative contract remains the same before and after the change of party.

(2) Where this regulation applies—

- (a) section 628 applies (and accordingly section 625 does not apply),
- (b) regulation 7 or 8, as the case may be, applies in respect of the contract in relation to the transferee, and
- (c) regulation 10(9) applies.]

Textual Amendments

- F96** [Regs. 6B-6D](#) substituted for [reg. 6B](#) (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **6**

[^{F96}Effect of elections on transfers within groups: regulation 9

6C.—(1) This regulation applies if—

- (a) one company replaces another as party to a derivative contract in relation to which regulation 9 applies, in circumstances in which section 625 of CTA 2009 applies or would apply but for section 628 of that Act,
- (b) the transferee (within the meaning of section 625 of CTA 2009) meets the conditions in regulation 9(1)(a) and (b) in relation to the contract, and
- (c) the hedged item in relation to the derivative contract is the same before and after the change of party.

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- (2) Where this regulation applies—
- (a) section 628 does not apply (and accordingly section 625 applies),
 - (b) regulation 9 applies for the purposes of determining the carrying value of the contract for the purposes of section 702 of CTA 2009 as that regulation applies for the purposes of determining the debits and credits to be brought into account under Part 7 of that Act, and
 - (c) regulation 9 applies in respect of the contract in relation to the transferee.]

Textual Amendments

F96 Regs. 6B-6D substituted for reg. 6B (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), 6

[^{F96}Transfers within groups where no election under regulation 6A

- 6D.**—(1) This regulation applies if—
- (a) one company replaces another as party to a derivative contract in relation to which no election under regulation 6A has effect in circumstances in which section 625 of CTA 2009 applies or would apply but for section 628 of that Act,
 - (b) the transferee (within the meaning of section 625 of CTA 2009) meets the conditions in regulation 7(1)(a)(i) and (ii), 8(1)(a)(i) and (ii) or 9(1)(a) and (b), as the case may be, in relation to the contract, and
 - (c) the hedged item in relation to the derivative contract is the same before and after the change of party.
- (2) Where this regulation applies, any election made by the transferee under regulation 6A has no effect in relation to the contract.]

Textual Amendments

F96 Regs. 6B-6D substituted for reg. 6B (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), 6

Fair value profits or losses arising from derivative contracts which are currency contracts

- 7.—[^{F97}(1) For the purposes of [^{F98}section 598(1)(a) of CTA 2009] there is prescribed in relation to a derivative contract whose underlying subject matter consists wholly of currency —
- (a) all credits and debits representing the whole or part of a company’s fair value profit or loss in an accounting period if—
 - (i) there is a hedging relationship between the contract or part of the contract and a forecast transaction or a firm commitment (“the hedged item”) of the company; and
 - (ii) the hedged item is not one [^{F99}for which fair value profits or losses are brought into account for the purposes of corporation tax];
 - (b) a company’s [^{F100}section 614 or 615 credit or debit] in relation to such a contract, if for the accounting period in which the [^{F100}section 614 or 615 credit or debit] falls to be brought into account sub-paragraph (a) applies to the contract; and

(c) a company's prior period adjustment credit or debit in relation to such a contract, if for the accounting period in which the prior period adjustment credit or debit falls to be brought into account sub-paragraph (a) applies to the contract, and the credits and debits mentioned in sub-paragraphs (a) to (c) together make up the regulation 7 fair value profits or losses.]

^{F101}(2)

(3) Where there is a hedging relationship between part of a currency contract and a hedged item, the part of the [^{F102}regulation 7] fair value profit or loss that is prescribed is the part which bears to the whole the proportion which the value of that part of the contract which is in the hedging relationship bears to the value of the whole of the contract.

^{F103}(4)

[^{F104}(5) Where regulation 4 [^{F105}or 5ZA] applies to a contract to which this regulation applies, nothing in this regulation or regulation 10 is to require any [^{F106}amount prescribed under regulation 4 or excluded under 5ZA] in relation to that contract to be brought into account.]

Textual Amendments

- F97** Reg. 7(1) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005](#) (S.I. 2005/2012), regs. 1(1), **8(2)**
- F98** Words in reg. 7(1) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014](#) (S.I. 2014/3188), regs. 1(1), **8(8)(a)**
- F99** Words in reg. 7(1)(a)(ii) substituted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment No. 2\) Regulations 2005](#) (S.I. 2005/3374), regs. 1(1), **8**
- F100** Words in reg. 7(1) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014](#) (S.I. 2014/3188), regs. 1(1), **8(9)**
- F101** Reg. 7(2) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005](#) (S.I. 2005/2012), regs. 1(1), **8(3)**
- F102** Words in reg. 7(3) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005](#) (S.I. 2005/2012), regs. 1(1), **8(4)**
- F103** Reg. 7(4) omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015](#) (S.I. 2015/1961), regs. 1(1), **7(a)**
- F104** Reg. 7(5) inserted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015](#) (S.I. 2015/1961), regs. 1(1), **7(b)**
- F105** Words in reg. 7(5) inserted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022](#) (S.I. 2022/239), regs. 1(1), **2(5)(a)**
- F106** Words in reg. 7(5) substituted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022](#) (S.I. 2022/239), regs. 1(1), **2(5)(b)**

Commencement Information

- I6** Reg. 7 in force at 1.1.2005, see [reg. 1\(1\)](#)

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

[^{F107}Exchange gains or losses arising from derivative contracts hedging anticipated or future proceeds from certain issues of shares

7A.—(1) For the purposes of section 598(1)(a) of the Corporation Tax Act 2009, an exchange gain or loss arising to a company is an excluded amount in an accounting period in relation to a derivative contract if—

- (a) the underlying subject matter of the contract consists wholly of currency; and
- (b) there is a relevant hedging relationship within the meaning of paragraph (2).

(2) There is a relevant hedging relationship between a derivative contract (or part of a derivative contract) and the anticipated or future proceeds of an announced or proposed rights issue or open offer of shares (“relevant share issue”) if, and to the extent that—

- (a) the contract (or part of the contract) is intended to hedge the economic risk to future capital raised under the relevant share issue (“the hedged item”); and
- (b) the economic risk is attributable to fluctuations in exchange rates between the currency in which the relevant share issue is denominated and the company’s functional currency.

(3) If there is a hedging relationship between part of a currency contract and a hedged item, the part of the fair value profit or loss that is an excluded amount is the part which bears to the whole the proportion which the value of that part of the contract which is in the hedging relationship bears to the value of the whole contract

(4) Paragraph (1) shall not apply to a derivative contract which is entered into with a person (“person A”) to whom the company is connected unless—

- (a) a person who is connected to the company enters into a derivative contract with a person who is not connected with the company; and
- (b) that contract confers rights or imposes liabilities which are equivalent to those of A under the contract which A entered with the company.

(5) Section 466 of the Corporation Tax Act 2009 (companies connected for an accounting period) applies for the purposes of paragraph (4).

(6) A derivative contract to which this regulation applies may act as a hedge of the anticipated or future proceeds from a relevant share issue only to the extent that the value of the obligation under the derivative contract (within the meaning of regulation 4(5)) does not exceed the anticipated or future proceeds from the relevant share issue which, but for the derivative contract, would not be hedged.

(7) Subsections (3) and (4) of section 606 of the Corporation Tax Act 2009 do not apply to any exchange gain or loss which is an excluded amount by virtue of paragraph (1).

[
^{F108}(7A) This regulation does not apply to amounts in relation to a derivative contract which are excluded amounts under regulation 5ZA.]

(8) In this regulation—

- (a) “functional currency”, in relation to a company, means the currency of the primary economic environment in which the company operates; and
- (b) “rights issue or open offer of shares” means an offer or invitation to existing shareholders to subscribe for or purchase further shares in proportion to (or as nearly as may be in proportion to) their current holdings.]

Textual Amendments

- F107** Reg. 7A inserted (5.8.2009 with application and effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2009 (S.I. 2009/1886), regs. 1(1), 5 (with reg. 7)
- F108** Reg. 7A(7A) inserted (1.4.2022 with effect in accordance with reg. 1(2) of the amending S.I.) by The Disregard and Bringing into Account of Profit and Losses on Derivative Contracts Hedging Acquisitions and Disposals of Shares Regulations 2022 (S.I. 2022/239), regs. 1(1), 2(6)

Profits or losses arising from derivative contracts which are commodity contracts or debt contracts

8.—^{F109}(1) For the purposes of ^{F110}section 598(1)(a) of CTA 2009] there is prescribed in relation to a commodity contract or debt contract—

- (a) all credits and debits representing the whole or part of a company's fair value profit or loss arising in an accounting period if—
- (i) there is a hedging relationship between the contract or part of the contract and a forecast transaction or a firm commitment (“the hedged item”) of the company; and
- (ii) the hedged item is not one ^{F111}for which fair value profits or losses are brought into account for the purposes of corporation tax];
- (b) a company's ^{F112}section 614 or 615 credit or debit], if for the accounting period in which the ^{F112}section 614 or 615 credit or debit] falls to be brought into account, sub-paragraph (a) applies to the contract; and
- (c) a company's prior period adjustment credit or debit, if for the accounting period in which the prior period adjustment credit or debit falls to be brought into account, sub-paragraph (a) applies to the contract,

and the credits and debits mentioned in sub-paragraphs (a) to (c) together make up the regulation 8 fair value profits or losses.]

(2) In this regulation—

“a commodity contract” means a derivative contract whose underlying subject matter is commodities unless the contract is an interest rate contract within the meaning of regulation 9(4); and

“a debt contract” means a derivative contract whose underlying subject matter is an asset or liability representing a loan relationship unless the contract is an interest rate contract within the meaning of regulation 9(4).

(3) Where there is a hedging relationship between part of a commodity contract or part of a debt contract as the case may be and a hedged item, the part of the ^{F113}regulation 8] fair value profit or loss that is prescribed is the part which bears to the whole the proportion which the value of that part of the contract which is in the hedging relationship bears to the value of the whole of the contract.

Textual Amendments

- F109** Reg. 8(1) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), 9(2)

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- F110** Words in reg. 8(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(8)(b)**
- F111** Words in reg. 8(1)(a)(ii) substituted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **8**
- F112** Words in reg. 8(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(9)**
- F113** Words in reg. 8(3) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **9(3)**

Commencement Information

- I7** Reg. 8 in force at 1.1.2005, see **reg. 1(1)**

Profits or losses arising from derivative contracts which are interest rate contracts

9.—(1) For the purposes of [^{F114}section 598(1)(a) of CTA 2009] there is prescribed all credits and debits representing the whole or part of the fair value profit or loss arising to a company in relation to its interest rate contracts in an accounting period if—

- (a) there is a hedging relationship between the contract or a portion of the contract and any of the risks arising in respect of an asset, liability, receipt or expense (“the hedged item”); and
- (b) fair value profits or losses arising on the hedged item or in relation to any of the risks [^{F115}, in relation to which the contract was intended to act as a hedge,] arising in respect of the hedged item, or any portion of the hedged item, are not brought into account for the purposes of corporation tax for that period.

(2) Where paragraph (1) applies, credits and debits shall be brought into account for the purposes of [^{F116}section 598(1)(b) of CTA 2009] on the assumption that an appropriate accruals basis had been used in relation to the contract for that accounting period.

[^{F117}(2A) Where an interest rate contract—

- (a) becomes a contract to which paragraph (1) applies, or
- (b) ceases to be a contract to which paragraph (1) applies,

the amount to be brought into account for the purposes of [^{F118}section 598(1)(b) of CTA 2009] is such amount as is just and reasonable in the circumstances and with regard to whether as a result of the change any amounts cease to be brought into account or are brought into account more than once [^{F119}and to the unexpired term of the hedged item].]

(3) Where [^{F120}regulation 4 or 5A] apply to a contract to which this regulation applies nothing in this regulation is to require any exchange gains or losses in relation to that contract to be brought into account.

(4) In this regulation—

“an appropriate accruals basis” in relation to a derivative contract is one where—

- (a) the contract is shown in the company’s accounts at cost (which may be nil), and the cost is adjusted for any cumulative amortisation of any premium or other amount falling to be recognised in arriving at the cost of the contract;
- (b) the aggregate of—

- (i) the amount of periodical payments under the contract, or in the case of a swap contract under which only a single payment is to be made, the value of the payment and
- (ii) the credits or debits representing interest arising, on the assumption that an effective interest method is used, in respect of the asset or liability representing a loan relationship which is the hedged item,

represent the credits or debits that would be given by generally accepted accounting practice in relation to an asset or liability representing a loan relationship whose terms include those of both the hedged item and the interest rate contract;

- (c) exchange gains and losses are recognised as a result of the translation of the contract at the balance-sheet date; and
- (d) profits and losses which arise as a result of the contract coming to an end before its stated date of maturity are amortised and brought into account over the unexpired term of the hedged item.

“an interest rate contract” means—

- (i) a derivative contract whose underlying subject matter is, or includes, interest rates, or
- (ii) if not falling within paragraph (i), a swap contract in which payments fall to be made by reference to a rate of interest or to an index determined by reference to income or retail prices.

F121(5)

F121(6)

F122(7)

Textual Amendments

- F114** Words in reg. 9(1) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(8)(c)**
- F115** Words in reg. 9(1)(b) inserted (27.12.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2006 \(S.I. 2006/3236\)](#), regs. 1(1), **4**
- F116** Words in reg. 9(2) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(11)**
- F117** Reg. 9(2A) inserted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment No. 2\) Regulations 2005 \(S.I. 2005/3374\)](#), regs. 1(1), **9**
- F118** Words in reg. 9(2A) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(11)**
- F119** Words in reg. 9(2A) inserted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **8(a)**
- F120** Words in reg. 9(3) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2015 \(S.I. 2015/1961\)](#), regs. 1(1), **8(b)**

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- F121** Reg. 9(5)(6) omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **8(c)**
- F122** Reg. 9(7) omitted (31.12.2014) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(12)**

Commencement Information

- 18** Reg. 9 in force at 1.1.2005, see **reg. 1(1)**

[^{F123}Profits or losses arising from designated cash flow hedges]

^{F124}**9A.**

Textual Amendments

- F123** Reg. 9A heading inserted (31.12.2014 with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **7(1)** (with reg. 9)
- F124** Reg. 9A omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **9**

Bringing fair value profits or losses into account on currency and commodity contracts

- 10.**—(1) For the purposes of [^{F125}section 598(1)(c) of CTA 2009] —
- (a) there is prescribed the aggregate of the credits and debits representing any [^{F126}regulation 7 or 8] fair value profits or losses excluded in relation to a derivative contract of a company ^{F127}; and
 - (b) the amount of that aggregate is brought into account for the period in which a termination event occurs.

This is subject to paragraphs (3), (5), (7) [^{F128}and (9)].

- (2) In paragraph (1) a “termination event” occurs—
 - (a) on the company ceasing to be a party to the contract; or
 - (b) if earlier, when the hedged item begins to affect the company’s profit or loss.
- (3) If the forecast transaction or firm commitment which is the hedged item mentioned in regulation 7 or regulation 8 is a forecast transaction of, or a firm commitment to a purchase of, anything the expenditure in relation to which—
 - (a) falls to be taken into account in computing the profits of a trade or property business carried on by the company, or
 - (b) would fall to be deducted but for any provision of the Corporation Tax Acts prohibiting the deduction of capital expenditure in respect of depreciation of an asset,

then the aggregate mentioned in paragraph (1)(a) in relation to the contract is [^{F129}subject to paragraph (3A),] to be brought into account in the accounting period in which the expenditure falls or would fall to be deducted.

- [^{F130}(3A) [^{F131}Subject to paragraph (3B),] if paragraph (3)(b) applies—

- (a) the amount to be brought into account in an accounting period is the product of

DA/ExFVP,

where—

DA is the amount of depreciation recognised in the profit and loss account or income statement in relation to the hedged item in the accounting period,

E is the total expenditure on the hedged item, and

FVP is the aggregate amount of regulation 7 or 8 fair value profit;

- (b) where the hedged item is disposed of, the balance of the aggregate amount mentioned in paragraph (1)(a) which has not been brought into account under sub-paragraph (a) of this paragraph shall be brought into account in the accounting period in which the disposal takes place.]

[^{F132}(3B) Where the disposal mentioned in paragraph (3A)(b) is to a company (“the transferee”) which is a member of the same group of companies, in applying paragraph (3A)(a) to the transferee FVP shall be treated as meaning the fair value profits and losses of the transferor.

(3C) In paragraph (3B), “group of companies” has the meaning given in [^{F133}section 624(3) of CTA 2009].]

(4) In paragraph (3) “property business” has the meaning given in [^{F134}section 748(4) of CTA 2009].

(5) Where—

- (a) part of a contract to which this regulation applies terminates without the company ceasing to be a party to the contract, or
- (b) part only of the hedged item begins to be recognised in determining the company’s profit and loss,

paragraph (1)(b) [^{F135}or paragraph (3)] is to apply to a proportionate amount of the aggregate.

(6) In paragraph (5) “proportionate amount” means that proportion of the relevant aggregate amount which is—

- (a) in a case where it is part of the contract which matures, the [^{F136}proportion] which the fair value of the part of the contract maturing bears to the fair value of the whole of the contract at that time, and
- (b) in any other case the proportion which the fair value of the hedged item [^{F137}which begins] to be recognised bears to the fair value of the whole of the hedged item at that time.

(7) Where immediately on ceasing to be a party to the contract (“the old contract”), the company enters into another contract (“the new contract”) which meets the conditions in regulation 7 or regulation 8 in relation to the same hedged item as was the hedged item in relation to the old contract—

- (a) paragraph (1)(b) shall not apply in relation to the old contract, and
- (b) the aggregate prescribed in paragraph (1)(a) in relation to the old contract shall be treated for the purposes of the application of this regulation to the new contract as included in the aggregate prescribed in relation to the new contract.

^{F138}(8)

[^{F139}(9) Where regulation 6B applies—

- (a) paragraph (1)(b) does not apply to the transferor, and

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- (b) the aggregate prescribed in paragraph (1)(a) in relation to the contract held by the transferor is treated as included in the aggregate prescribed in relation to the contract held by the transferee.

In this paragraph “the transferor” and “the transferee” have the same meaning as in section 625 of CTA 2009.]

^{F140}(10)

^{F141}(11)

Textual Amendments

- F125** Words in reg. 10(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(13)**
- F126** Words in reg. 10(1)(a) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(2)(a)**
- F127** Words in reg. 10(1)(a) omitted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(2)(b)**
- F128** Words in reg. 10(1) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **10(a)**
- F129** Words in reg. 10(3) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(3)**
- F130** Reg. 10(3A) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(4)**
- F131** Words in reg. 10(3A) inserted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **11(2)**
- F132** Reg. 10(3B)(3C) inserted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **11(3)**
- F133** Words in reg. 10(3C) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(14)**
- F134** Words in reg. 10(4) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(15)**
- F135** Words in reg. 10(5) inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(5)**
- F136** Word in reg. 10(6)(a) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(6)(a)**
- F137** Words in reg. 10(6)(b) substituted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **10(6)(b)**

- F138** Reg. 10(8) omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **10(c)**
- F139** Reg. 10(9) substituted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **10(b)**
- F140** Reg. 10(10) omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **10(c)**
- F141** Reg. 10(11) omitted (31.12.2015 with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 (S.I. 2015/1961), regs. 1(1), **10(c)**

Commencement Information

- I9** Reg. 10 in force at 1.1.2005, see **reg. 1(1)**

[^{F142}Bringing exchange gains into account on contracts to which regulation 7A applies

10A.—(1) For the purposes of section 598(1)(c) of the Corporation Tax Act 2009 there is an amount to be brought into account which is equivalent to the amount of any exchange gain specified in paragraph (2).

(2) The exchange gain specified is any exchange gain—

- (a) arising to a company in relation to a derivative contract to which regulation 7A applies or applied, and
- (b) which has been distributed to the shareholders of the company.

(3) The amount to be brought into account by paragraph (1) is to be brought into account for the accounting period in which the distribution is made.]

Textual Amendments

- F142** Reg. 10A inserted (5.8.2009 with application and effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2009 (S.I. 2009/1886), regs. 1(1), **6**

[^{F143}Profits and losses arising from loan relationships with embedded derivatives

11.—[^{F144}(1) For the purposes of [^{F145}section 310(1) of CTA 2009] (amounts recognised in determining company's profits and loss) the amounts described in paragraph (2) are prescribed in relation to a company which is party to a creditor relationship to which—

(a) either—

- (i) section 92 (convertible securities etc: creditor relationships), or
- (ii) section 93 (relationships linked to the value of chargeable assets),

of the Finance Act 1996 applied immediately before the start of the first accounting period of the company to begin on or after 1st January 2005, and

- (b) section 94A of the Finance Act 1996 (loan relationships with embedded derivatives) applies in the first accounting period of the company to begin on or after 1st January 2005.

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

(1A) Where paragraph (1) does not apply, for the purposes of [^{F146}section 310(1) of CTA 2009] the amounts described in paragraph (3) are prescribed in relation to a company which is party to a creditor relationship to which—

- (a) section 92, or
- (b) section 93,

of the Finance Act 1996 applies immediately before the start of the first accounting period of the company to begin on or after 1st January 2005.]

- (2) The prescribed amounts are all credits and debits in respect of the host contract save for—
 - (a) credits in relation to interest accruing in respect of the creditor relationship without regard to the amounts given by the effective interest method; and
 - (b) [^{F147}where paragraph (1)(a)(i) applies,] credits and debits in respect of exchange gains and losses.
- (3) The prescribed amounts are all credits and debits save for—
 - (a) credits in relation to interest, and
 - (b) [^{F148}where paragraph (1A)(a) applies,] credits and debits in respect of exchange gains and losses.

[^{F149}(4) Where there is a change of accounting policy in drawing up a company's accounts from one period of account to the next affecting the amounts to be brought into account for accounting purposes in respect of the company's loan relationships, the amounts prescribed in paragraphs (1) to (3) that would otherwise be brought into account for the purposes of [^{F150}Part 5 of the Corporation Tax 2009] shall not be brought into account.]]

Textual Amendments

- F143** Regs. 11, 12 inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2005 \(S.I. 2005/2012\)](#), regs. 1(1), **11**
- F144** Reg. 11(1)(1A) substituted for reg. 11(1) (27.12.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2006 \(S.I. 2006/3236\)](#), regs. 1(1), **6(2)**
- F145** Words in reg. 11(1) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(17)(a)**
- F146** Words in reg. 11(1A) substituted (31.12.2014) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2014 \(S.I. 2014/3188\)](#), regs. 1(1), **8(17)(a)**
- F147** Words in reg. 11(2)(b) inserted (27.12.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2006 \(S.I. 2006/3236\)](#), regs. 1(1), **6(3)**
- F148** Words in reg. 11(3)(b) inserted (27.12.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment\) Regulations 2006 \(S.I. 2006/3236\)](#), regs. 1(1), **6(4)**
- F149** Reg. 11(4) inserted (29.11.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Loan Relationships and Derivative Contracts \(Disregard and Bringing into Account of Profits and Losses\) \(Amendment No. 2\) Regulations 2005 \(S.I. 2005/3374\)](#), regs. 1(1), **12**

F150 Words in reg. 11(4) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(18)**

[^{F143}12.—[^{F151}(1) For the purposes of [^{F152}section 310(1) of CTA 2009] the amounts described in paragraph (2) are prescribed in relation to a company which is party to a debtor relationship to which—

(a) either—

(i) section 92A (convertible securities etc: debtor relationships), or

(ii) section 93,

of the Finance Act 1996 applies immediately before the start of the first accounting period of the company to begin on or after 1st January 2005, and

(b) section 94A of the Finance Act 1996 applies in the first accounting period of the company to begin on or after 1st January 2005.

This is subject to paragraph (4).

(1A) Where paragraph (1) does not apply, for the purposes of [^{F153}section 310(1) of CTA 2009] the amounts described in paragraph (2A) are prescribed in relation to a company which is party to a debtor relationship to which—

(a) section 92A, or

(b) section 93,

of the Finance Act 1996 applies immediately before the start of the first accounting period of the company to begin on or after 1st January 2005.

This is subject to paragraph (4).

(2) The prescribed amounts are—

(a) where paragraph (1)(a)(i) applies, debits to the extent that they are within section 92A(3) of the Finance Act 1996;

(b) where paragraph (1)(a)(ii) applies, all debits and credits in respect of the host contract save for debits in relation to interest accruing in respect of the debtor relationship without regard to the amounts given by the effective interest method.

(2A) The prescribed amounts are—

(a) where paragraph (1A)(a) applies, debits to the extent that they are within section 92A(3) of the Finance Act 1996;

(b) where paragraph (1A)(b) applies, all debits and credits in respect of the host contract save for debits in relation to interest.]

[^{F154}(3) Where there is a change of accounting policy in drawing up a company's accounts from one period of account to the next affecting the amounts to be brought into account for accounting purposes in respect of the company's loan relationships, the amounts prescribed in paragraphs (1) and (2) that would otherwise be brought into account for the purposes of [^{F155}Part 5 of the Corporation Tax 2009] shall not be brought into account.

(4) This regulation does not apply to a company which is a party to a debtor relationship in a case where—

(a) the company is carrying on a banking business or a business consisting wholly or partly in dealing in securities, and

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

(b) it entered into the debtor relationship in the ordinary course of that business.]]

Textual Amendments

- F143** Regs. 11, 12 inserted (11.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2005 (S.I. 2005/2012), regs. 1(1), **11**
- F151** Reg. 12(1)-(2A) substituted for reg. 12(1)(2) (27.12.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2006 (S.I. 2006/3236), regs. 1(1), **7(2)**
- F152** Words in reg. 12(1) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(17)(b)**
- F153** Words in reg. 12(1A) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(17)(b)**
- F154** Reg. 12(3)(4) inserted (29.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment No. 2) Regulations 2005 (S.I. 2005/3374), regs. 1(1), **13(4)**
- F155** Words in reg. 12(3) substituted (31.12.2014) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2014 (S.I. 2014/3188), regs. 1(1), **8(18)**

[^{F156}Loan relationships as permanent as equity

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

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

- (a) in the earlier period the loan relationship is treated (in accordance with SSAP 20) as permanent as equity and either—
- (i) the loan relationship was brought into account at an historic rate, or
 - (ii) debits and credits in relation to the loan relationship were not brought into account by virtue of section 328(3) of the Corporation Tax Act 2009, and
- (b) in the later period the loan relationship was brought into account at a spot rate of exchange.
- (3) The amounts are—
- (a) debits and credits representing the difference between the carrying value of the loan relationship recognised for accounting purposes at the end of the earlier period and the value recognised at the beginning of the later period to the extent the debits or credits are attributable to the different rates of exchange, and
 - (b) debits and credits representing exchange gains and losses arising in the later period and subsequent accounting periods in relation to the loan relationship.
- (4) But an amount is not within paragraph (3)(b) to the extent that in any period —
- (a) the loan relationship is a hedged item under a hedging relationship where the hedging instrument is a liability representing a loan relationship of the company or an obligation

of the company under a derivative contract to pay in exchange for one currency an amount in a second currency, or

- (b) regulation 3(5) applies in relation to the loan relationship.
- (5) For the purposes of this regulation—
 - (a) where there is a change of accounting policy in drawing up a company’s accounts from one period of account to the next, the “earlier period” is the first of those periods of account and the “later period” is the next period;
 - (b) “functional currency” means the currency of the primary economic environment in which a company operates;
 - (c) “historic rate” and “as permanent as equity” have the same meaning as for accounting purposes;
 - (d) “SSAP 20” means Statement of Standard Accounting Practice No.20 on Foreign Currency Translation, issued by the Accounting Standards Board on 1st April 1983.]

Textual Amendments

F156 Reg. 12A inserted (31.12.2014 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Changes in Accounting Standards \(Loan Relationships and Derivative Contracts\) Regulations 2014 \(S.I. 2014/3325\)](#), regs. 1(1), **3(2)**

[^{F157} **Transitional provision: exchange losses arising from contracts to which regulation 7A applies**

- 13.**—(1) This regulation applies to a derivative contract to which regulation 7A applies—
- (a) which was entered into on or after 1st January 2009;
 - (b) which formed part of a relevant hedging relationship (within the meaning of regulation 7A) up to and including 10th March 2009; and
 - (c) in respect of which an exchange loss would have arisen to the company had an accounting period ended on 9th March 2009.
- (2) For the purposes of section 598(1)(c) of the Corporation Tax Act 2009 the amount to be brought into account is the lower of—
- (a) the exchange loss arising to the company which is incurred on the termination of the derivative contract; or
 - (b) the exchange loss which would have arisen to the company in relation to the derivative contract had an accounting period ended on 9th March 2009.
- (3) Paragraph (4) applies if there is more than one derivative contract to which regulation 7A applies in relation to the same hedged item.
- (4) The total amount of the exchange loss in relation to those contracts which is to be brought into account under this regulation shall not exceed the aggregate net exchange losses (if any) which—
- (a) arose to the company on the termination of those contracts, or
 - (b) would have arisen to the company in relation to those contracts had an accounting period ended on 9 March 2009.
- (5) Where paragraph (4) applies, the amount of loss to be brought into account is to be apportioned between each of the contracts on a just and reasonable basis.
- (6) For the purposes of this regulation, the termination of a derivative contract shall be regarded as having occurred on the earlier of—

Status: Point in time view as at 01/04/2022.

Changes to legislation: There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004. (See end of Document for details)

- (a) the day on which the contract is terminated, or
 - (b) the last day of the first accounting period which ends on or after 10th March 2009.
- (7) The amount to be brought into account for the purposes of section 598(1)(c) of the Corporation Tax Act 2009 is nil in a case where—
- (a) no exchange loss arises to the company on the termination of the derivative contract;
 - (b) there is more than one derivative contract to which regulation 7A applies in relation to the same hedged item and no aggregate net exchange loss arises to the company on the termination of those contracts; or
 - (c) there is more than one derivative contract to which regulation 7A applies in relation to the same hedged item and no aggregate net exchange loss would have arisen to the company in relation to those contracts had an accounting period ended on 9th March 2009.]

Textual Amendments

F157 Reg. 13 inserted (5.8.2009 with application and effect in accordance with reg. 1(2) of the amending S.I.) by The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2009 (S.I. 2009/1886), regs. 1(1), 7

9th December 2004

Derek Twigg
Nick Ainger
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations allow certain profits and losses from loan relationships and derivative contracts to be left out of account, to be brought into account in a different way or to be brought into account at a later date.

Regulation 1 provides for the citation, commencement and effect.

Regulation 2 provides for the interpretation.

Regulation 3 prescribes for exchange gains or losses arising from liabilities hedging shares etc. to be disregarded where the contract is matched with shares, ships or aircraft.

Regulation 4 prescribes for exchange gains or losses arising from derivative contracts hedging shares etc. to be disregarded where the contract is matched with shares, ships or aircraft.

Regulation 5 contains provisions supplementary to regulations 3 and 4.

Regulation 6 introduces, in relation to fair value profits and losses, specific rules which are contained in regulations 7, 8 and 9 and in particular provides for the rules in those regulations to be subject to elections.

Regulation 7 prescribes fair value profits and losses arising from derivative contracts which are currency contracts.

Regulation 8 prescribes bringing fair value profits and losses into account on commodity contracts and debt contracts.

Regulation 9 prescribes profits or losses arising from derivative contracts which are interest rate contracts.

Regulation 10 brings into account profits or losses arising on currency and commodity contracts.

These Regulations do not impose any new costs on business.

Status:

Point in time view as at 01/04/2022.

Changes to legislation:

There are currently no known outstanding effects for the The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004.