

## SCHEDULE

Regulation 4

### Turnover of a business

#### Interpretation

1.—(1) In this Schedule—

“credit institution” means a credit institution as defined in Article 4(1)(1) of [Regulation \(EU\) No 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending [Regulation \(EU\) No 648/2012](#)(1);

“financial institution” means a financial institution as defined in Article 4(1)(26) of [Regulation \(EU\) No 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending [Regulation \(EU\) No 648/2012](#), or any undertaking located outside the United Kingdom which does not fall within the scope of that definition but which carries out equivalent activities;

“insurance undertaking” means—

(a) an undertaking which—

- (i) has its head office in the United Kingdom;
- (ii) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities; and
- (iii) effects or carries out contracts of insurance or reinsurance; or

(b) a third-country insurance undertaking;

“third-country insurance undertaking” means an undertaking which, if its head office were in the United Kingdom, would require permission under Part 4A of the Financial Services and Markets Act 2000 to carry out regulated activities relating to insurance or reinsurance.

(2) The provisions of this Schedule are to be interpreted in accordance with generally accepted accounting principles and practices.

#### Commencement Information

**II** [Sch. para. 1](#) in force at 4.1.2022, see [reg. 1\(1\)](#)

#### Turnover of a business

2.—(1) The turnover of a business is the sum of all amounts derived from the sale of products and the provision of services falling within the ordinary activities of the business to businesses or consumers, after the deduction of sales rebates, value added tax and other taxes directly related to turnover.

(2) But where all or any of the activities of a business are the activities of a credit institution, a financial institution or an insurance undertaking, paragraph 3 or 4 (as the case may be) applies instead of sub-paragraph (1) to determine the turnover of the business in respect of those activities.

(3) Paragraph 5 also applies to determine the turnover of a business for the purposes of this Schedule.

(1) EUR 2013/575. Article 4 was amended by [S.I. 2018/1401](#), [2019/264](#), [710](#) and [1232](#), and is amended prospectively by the Financial Services Act 2021 (c.22), section 1 and Schedule 1.

**Changes to legislation:** There are currently no known outstanding effects for the The National Security and Investment Act 2021 (Monetary Penalties) (Turnover of a Business) Regulations 2021, SCHEDULE. (See end of Document for details)

**Commencement Information**

**I2** Sch. para. 2 in force at 4.1.2022, see **reg. 1(1)**

**Turnover in respect of activities of a credit institution or financial institution**

**3.—**(1) The turnover of a business in respect of the activities of a credit institution or financial institution is the sum of the following income items received by the institution, after deduction of value added tax and other taxes directly related to those items—

- (a) interest income and similar income;
- (b) the following income from securities—
  - (i) income from shares and other variable yield securities;
  - (ii) income from participating interests;
  - (iii) income from shares in affiliated undertakings;
- (c) commissions receivable;
- (d) net profit on financial operations;
- (e) other operating income.

(2) Expressions used in sub-paragraph (1) have the meanings given by Council Directive (EEC) 86/635 of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions<sup>(2)</sup>.

**Commencement Information**

**I3** Sch. para. 3 in force at 4.1.2022, see **reg. 1(1)**

**Turnover in respect of activities of an insurance undertaking**

**4.** The turnover of a business in respect of the activities of an insurance undertaking is the total value of gross premiums received, comprising all amounts received and receivable in respect of insurance contracts issued by or on behalf of the undertaking, including outgoing reinsurance premiums, and after deduction of taxes and para-fiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

**Commencement Information**

**I4** Sch. para. 4 in force at 4.1.2022, see **reg. 1(1)**

**Further provisions about determining turnover**

**5.—**(1) The turnover of a business is its turnover both in and outside the United Kingdom.

(2) The turnover of a business includes any subsidy given to the business, determined in accordance with paragraph 6.

(2) OJ No. L372, 31.12.86, p. 1, amended by Directives 2001/65/EC (OJ No. L 283, 27.10.01, p. 28), 2003/51/EC (OJ No. L178, 17.7. 03, p. 16), and 2006/46/EC (OJ No. L224, 16.8.06, p. 1).

(3) Where a business (“A”) owns or controls one or more businesses, the turnover of the businesses owned or controlled by A does not include amounts derived from the sale of products or the provision of services between any of those businesses, or any of those businesses and A.

(4) Where in the accounts or other information used by the Secretary of State to calculate the turnover (or any part of the turnover) of a business any figure is expressed in a currency other than sterling, the Secretary of State may determine the equivalent in sterling, applying whatever rate or rates of exchange the Secretary of State considers appropriate and rounding the resulting figure up or down as the Secretary of State considers appropriate.

(5) Where an acquisition, divestment or other transaction or event has occurred since the end of the period in which the turnover of the business is determined in accordance with regulation 3 which the Secretary of State considers may have a significant impact on the turnover of the business, the Secretary of State may take account of that transaction or event if the Secretary of State considers it appropriate to do so and accordingly increase or (as the case may be) reduce by such amount as the Secretary of State considers appropriate the amount which would otherwise constitute the business’s turnover.

#### Commencement Information

**I5** Sch. para. 5 in force at 4.1.2022, see **reg. 1(1)**

#### Subsidies

6.—(1) For the purposes of paragraph 5(2), “subsidy” means financial assistance which—

- (a) is given, directly or indirectly, from public resources by a public authority;
- (b) confers an economic advantage on one or more businesses; and
- (c) is specific, that is, is such that it benefits one or more businesses over one or more other businesses with respect to the production of goods or the provision of services.

(2) For the purposes of sub-paragraph (1), the means by which financial assistance may be given include—

- (a) a direct transfer of funds (such as grants or loans);
- (b) a contingent transfer of funds (such as guarantees);
- (c) the forgoing of revenue that is otherwise due;
- (d) the provision of goods or services;
- (e) the purchase of goods or services.

(3) For the purposes of sub-paragraph (1)(a), “public authority” means a person who exercises functions of a public nature.

(4) Financial assistance given from the person’s resources by a person who is not a public authority is to be treated for the purposes of sub-paragraph (1)(a) as financial assistance given from public resources by a public authority if the involvement of a public authority in the decision to give financial assistance is such that the decision is, in substance, the decision of the public authority.

(5) For the purposes of sub-paragraph (4), the factors which may be taken into account when considering the involvement of a public authority in the decision of a person to give financial assistance include, in particular, factors relating to—

- (a) the control exercised over that person by that public authority, or
- (b) the relationship between that person and that public authority.

**Changes to legislation:** There are currently no known outstanding effects for the The National Security and Investment Act 2021 (Monetary Penalties) (Turnover of a Business) Regulations 2021, SCHEDULE. (See end of Document for details)

(6) For the purposes of this paragraph, financial assistance is to be treated as given to a business if the business has an enforceable right to the financial assistance.

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**Commencement Information**

**I6** Sch. para. 6 in force at 4.1.2022, see **reg. 1(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the The National Security and Investment Act 2021 (Monetary Penalties) (Turnover of a Business) Regulations 2021, SCHEDULE.