

SCHEDULE

PART 3

Calculation of Eligible Liabilities

Liabilities in respect of sterling deposits

21.—(1) In calculating the amount of an eligible institution's liabilities in respect of sterling deposits made with United Kingdom offices of the institution—

- (a) the total credit balances on the relevant accounts of any customer with those offices must be reduced by the total debit balances on those accounts, and
- (b) any interest which has accrued but has not yet been credited must be ignored.

(2) For the purposes of sub-paragraph (1)(a), where the eligible institution provides banking facilities to different undertakings within the same group, and compliance with any limit on those facilities is determined by reference to net amounts, the total credit balances on the relevant accounts of such undertakings with those offices must be reduced by the total debit balances on those accounts.

(3) For the purposes of this paragraph, an account with an eligible institution is a relevant account if the following conditions are satisfied—

- (a) the account is denominated in sterling;
- (b) where the account is held in the name of an individual, that individual is resident in the United Kingdom;
- (c) where the account is held in the name of an undertaking, the account is an account of a United Kingdom office of that undertaking;
- (d) the account and all other accounts which the institution treats as netted with that account are managed and controlled on a net basis;
- (e) the institution has received a written opinion from its legal advisers that—
 - (i) a legally enforceable right of set-off exists in respect of the account and all other accounts which the institution treats as netted with that account, and
 - (ii) such a right exists under the law of each jurisdiction whose law could affect the enforceability of that right (including upon default, liquidation or bankruptcy or any analogous event under the law of that jurisdiction).

Liabilities and claims in respect of retransfer agreements

22.—(1) In calculating the amount of an eligible institution's liability to make a payment for the purchase of, or otherwise in return for the transfer to it of, securities or other assets under a retransfer agreement, the amount of the institution's liability to make such a payment must be reduced by the amount of any deposit paid by the institution under that agreement.

(2) In calculating the amount of an eligible institution's claim to receive a payment for the sale of, or otherwise in return for the transfer by it of, securities or other assets under a retransfer agreement, the amount of the institution's claim must be reduced by the amount of any deposit paid to the institution under that agreement.

(3) In calculating the amount payable by or to an eligible institution under a retransfer agreement involving the purchase of securities or other assets, no account may be taken of any of the following—

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- (a) any amount by which the purchase price under the agreement exceeds the sale price of the securities or other assets originally sold under the agreement;
- (b) in the case of both purchase price and sale price, any amount payable in respect of any income which has accrued on the securities or other assets purchased or sold.

Holdings of securities

23.—(1) For the purposes of these Regulations, securities held by United Kingdom offices of an eligible institution—

- (a) include any security which the institution is required to purchase, or accept a transfer of, under a retransfer agreement entered into by any such office, and
- (b) exclude any security which the institution is required to sell or transfer under such an agreement.

(2) In sub-paragraph (1), where the retransfer agreement provides for the purchase or transfer of equivalent securities, references to any security are references to the amount of any security which—

- (a) are of a type which may be sold or transferred under that agreement, and
- (b) the eligible institution is required under the agreement—
 - (i) to purchase, or accept a transfer of, or
 - (ii) to sell or transfer.

Avoidance of double-counting

24.—(1) If any liability of an eligible institution would fall within more than one of the descriptions of liability set out in paragraphs 8 to 13 of this Schedule, that liability may only be counted as a liability once when aggregating the amounts referred to in those paragraphs for the purpose of regulation 4.

(2) If any item relating to an eligible institution would fall within more than one of the descriptions set out in paragraphs 14 to 20 of this Schedule, that item may only be counted once when aggregating the amounts referred to in those paragraphs for the purpose of regulation 4.