

## SCHEDULES

### SCHEDULE 1

Section 1

#### THE BANK LEVY

#### PART 1

##### INTRODUCTION

- 1 There is to be a tax called “the bank levy”.
- 2 The bank levy is charged on certain types of equity and liabilities of certain groups of entities and individual entities as set out in Part 2 of this Schedule.
- 3 Part 3 of this Schedule contains provision defining the different types of groups of entities in relation to which the bank levy is charged.
- 4 Part 4 of this Schedule contains provision defining the equity and liabilities on which the bank levy is charged.
- 5 Part 5 of this Schedule contains supplementary provision.
- 6 Part 6 of this Schedule deals with the collection and management of the bank levy.
- 7 Part 7 of this Schedule deals with double taxation relief.
- 8 Part 8 of this Schedule contains definitions.

#### PART 2

##### CHARGING OF BANK LEVY

##### *Bank levy to be charged in relation to certain groups of entities*

- 9 (1) The bank levy is charged if, as at the end of a period of account (“the chargeable period”) of an entity (“the parent entity”) –
  - (a) the parent entity is a parent and is not a subsidiary of any other entity, and
  - (b) the group (“the relevant group”) for which the parent entity is the parent is a group within sub-paragraph (2).
- (2) The groups within this sub-paragraph are –
  - (a) a UK banking group,
  - (b) a building society group,
  - (c) a foreign banking group, or
  - (d) a relevant non-banking group.

See Part 3 of this Schedule for the definitions of these groups.

- (3) “Group”, “parent” and “subsidiary” have the meanings given by those provisions of international accounting standards relating to the preparation of consolidated financial statements (whether or not the parent entity prepares financial statements under those standards).
- (4) Accordingly, for the purposes of this Schedule the members of the relevant group are –
  - (a) the parent entity, and
  - (b) any other entity which, as at the end of the chargeable period, is a member of the group for the purposes of the provisions mentioned in sub-paragraph (3).
- (5) Sub-paragraphs (3) and (4) are subject to what follows.
- (6) Sub-paragraph (7) applies if –
  - (a) as at the end of the chargeable period –
    - (i) the parent entity is resident in a territory outside the United Kingdom,
    - (ii) generally accepted accounting practice for entities resident in that territory is or includes US GAAP, and
    - (iii) the parent entity is a parent for the purposes of those provisions of US GAAP which relate to the preparation of consolidated financial statements (as well as being a parent for the purposes of the provisions mentioned in sub-paragraph (3)), and
  - (b) the parent entity prepares consolidated financial statements for the chargeable period under US GAAP.
- (7) The relevant group is the group for which the parent entity is the parent for the purposes of the provisions of US GAAP mentioned in sub-paragraph (6)(a)(iii) (instead of the provisions mentioned in sub-paragraph (3)) and, accordingly, for the purposes of this Schedule the members of the relevant group are –
  - (a) the parent entity, and
  - (b) any other entity which, as at the end of the chargeable period, is a member of the group for the purposes of the provisions of US GAAP mentioned in sub-paragraph (6)(a)(iii).
- (8) This paragraph applies in relation to periods of account ending on or after 1 January 2011.

*Bank levy to be charged in relation to certain entities which are not members of groups*

- 10 (1) The bank levy is charged if, as at the end of a period of account (“the chargeable period”) of an entity (“the relevant entity”), the relevant entity –
  - (a) is a UK resident bank, a building society or a relevant foreign bank, and
  - (b) does not fall within sub-paragraph (2) or (3).
- (2) An entity falls within this sub-paragraph if it is an entity in relation to which paragraph 9(1) applies as at the end of the chargeable period.
- (3) An entity (“A”) falls within this sub-paragraph if –
  - (a) there is another entity (“B”) in relation to which paragraph 9(1) applies as at the end of the chargeable period (or in relation to which

paragraph 9(1) would apply if B had a period of account ending at the same time as the chargeable period), and

(b) A is (or would be) a member of the relevant group.

- (4) This paragraph applies in relation to periods of account ending on or after 1 January 2011.

*Steps for determining the amount of the bank levy*

- 11 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 9 or 10.
- (2) Here are the steps to be taken to determine the amount of the bank levy.

*Step 1*

In accordance with Part 4 of this Schedule, determine the amount of the chargeable equity and liabilities of the relevant group or the relevant entity (as the case may be).

*Step 2*

If the amount of the chargeable equity and liabilities is not more than £20,000,000,000, the amount of the bank levy is nil and no further steps are taken.

If the amount of the chargeable equity and liabilities is more than £20,000,000,000, go to Step 3.

*Step 3*

Determine how much of the chargeable equity and liabilities are long term equity and liabilities and how much are short term liabilities.

*Step 4*

Determine the proportion (“A%”) of the chargeable equity and liabilities which is long term equity and liabilities and the proportion (“B%”) of the chargeable equity and liabilities which is short term liabilities.

*Step 5*

Reduce the amount of the long term equity and liabilities by an amount equal to A% of £20,000,000,000 and the amount of the short term liabilities by an amount equal to B% of £20,000,000,000.

*Step 6*

If the chargeable period is 12 months, go straight to Step 7.

If not, adjust the amount of the long term equity and liabilities and the amount of the short term liabilities as follows.

Divide the amount by 365 and then multiply the result by the number of days in the chargeable period.

*Step 7*

Charge the amount of the long term equity and liabilities at the rate of [ ]%.

Charge the amount of the short term liabilities at the rate of [ ]%.

Add these results together to give the amount of the bank levy.

- (3) The bank levy is to be paid by the entity determined under Part 6 of this Schedule.

*Pre-2011 periods and lower rates for 2011*

- 12 (1) Paragraph 11(2) applies subject to this paragraph if some or all of the chargeable period falls in 2011.
- (2) If the chargeable period starts before 1 January 2011, for the purposes of Step 6 and Step 7 (as substituted by sub-paragraph (3) below) the part of the period falling before 1 January 2011 is ignored and, accordingly, the period is treated as having started on 1 January 2011.
- (3) For Step 7 there is substituted –
- “Step 7  
Determine the proportion (“X%”) of the chargeable period falling in 2011.  
Charge X% of the amount of the long term equity and liabilities at the rate of [ ]% and the balance (if any) at [ ]%.  
Charge X% of the amount of the short term liabilities at the rate of [ ]% and the balance (if any) at [ ]%.  
Add these results together to give the amount of the bank levy.”

PART 3

GROUPS COVERED BY THE BANK LEVY

*Definitions of “UK banking group”, “building society group”, “foreign banking group” and “relevant non-banking group”*

- 13 The relevant group is a “UK banking group” if –
- (a) the group is a banking group (see paragraph 17), and
  - (b) the parent entity is a UK resident entity.
- 14 The relevant group is a “building society group” if the parent entity is a building society.
- 15 The relevant group is a “foreign banking group” if –
- (a) the group is a banking group (see paragraph 17), and
  - (b) the parent entity is a non-UK resident entity.
- 16 The relevant group is a “relevant non-banking group” if –
- (a) the members of the group include at least one UK resident bank or relevant foreign bank, and
  - (b) the group is neither a banking group nor a building society group.

*Definition of “banking group”*

- 17 (1) The relevant group is a “banking group” if –
- (a) condition A, B, C or D is met, and
  - (b) the exempt activities condition is not met (see paragraph 18).
- (2) Condition A is that the parent entity is a UK resident bank or a relevant foreign bank.
- (3) Condition B is that –
- (a) the parent entity is an investment entity, and

- 
- (b) the members of the relevant group include at least one UK resident bank to which sub-paragraph (6) applies or relevant foreign bank to which that sub-paragraph applies.
- (4) Condition C is that –
- (a) the parent entity is a non-UK resident entity to which sub-paragraph (8) applies, and
  - (b) the members of the relevant group include at least one UK resident bank or relevant foreign bank.
- (5) Condition D is that –
- (a) the parent entity is an investment entity,
  - (b) the members of the relevant group include at least one non-UK resident entity to which both sub-paragraphs (6) and (8) apply, and
  - (c) those members also include at least one UK resident bank or relevant foreign bank.
- (6) This sub-paragraph applies to an entity (“E”) if, for the purposes of the applicable accounting provisions, E is not a subsidiary of any other entity apart from investment entities.
- (7) “The applicable accounting provisions” means –
- (a) the provisions mentioned in paragraph 9(3), or
  - (b) if the members of the relevant group are determined under paragraph 9(7), the provisions of US GAAP mentioned in paragraph 9(6)(a)(iii).
- (8) This sub-paragraph applies to an entity (“F”) if –
- (a) F would be a UK resident bank if F were a UK resident entity and carried on its activities in the United Kingdom, or
  - (b) F –
    - (i) is a member of a partnership which is a non-UK resident entity, and
    - (ii) would be a UK resident bank if both F and the partnership were UK resident entities and the partnership carried on its activities in the United Kingdom.
- (9) “Investment entity” –
- (a) means an entity the business of which consists wholly or mainly of, and the principal part of the income of which is derived from, the making of investments, and
  - (b) also includes any savings bank or other bank for savings.
- 18 (1) The exempt activities condition is met for the purposes of paragraph 17(1)(b) if –
- (a) at least 90% of the trading income of the relevant group for the chargeable period derives from exempt activities, or
  - (b) at least 50% of the trading income of the relevant group for the chargeable period derives from non-financial trading activities.
- (2) For this purpose, the trading income of the relevant group for the chargeable period –
- (a) consists of the items mentioned in sub-paragraph (3), and
  - (b) is to be determined by reference to –

- (i) the amounts disclosed in the group's consolidated financial statements for the chargeable period as prepared under the applicable accounting standards, or
  - (ii) if no such financial statements are prepared, the amounts which would have been so disclosed had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.
- (3) The items referred to in sub-paragraph (2)(a) are –
  - (a) the group's gross income for the chargeable period arising from its activities (other than net-basis activities) without taking account of any deductions (whether for expenses or otherwise), and
  - (b) the group's net income for the chargeable period arising from its net-basis activities.
- (4) In this paragraph –
  - “activities” includes buying, holding, managing and selling assets,
  - “the applicable accounting standards” means –
    - (a) international accounting standards, or
    - (b) US GAAP if the members of the relevant group are determined under paragraph 9(7),
  - “dealing on own account” has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (see Article 4(1)(6)),
  - “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) but ignoring the exclusions in articles 6 to 9AB,
  - “exempt activities” means –
    - (a) insurance activities, asset management activities and related activities, and
    - (b) non-financial trading activities,
  - “financial trading entity” means an entity which –
    - (a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or
    - (b) is not within paragraph (a) but carries on a trade consisting wholly or partly in dealing in securities,
  - “insurance activities” means –
    - (a) the effecting or carrying out of contracts of insurance by a regulated insurer, and
    - (b) investment business that arises directly from activities falling within paragraph (a),
  - “lending activities” means –
    - (a) acceptance of deposits or other repayable funds,
    - (b) lending of money, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions (including forfeiting),
    - (c) finance leasing (as lessor),
    - (d) issuing and administering means of payment,
    - (e) provision of guarantees or commitments to provide money,
    - (f) money transmission services,
    - (g) provision of alternative finance arrangements, and

- (h) other activities carried on in connection with activities falling within any of paragraphs (a) to (g),
- “net-basis activities” means activities normally reported on a net basis in consolidated financial statements prepared under the applicable accounting standards,
- “non-financial trading activities” means activities carried on by an entity which is not a financial trading entity (or an entity which would be a financial trading entity if it were a UK resident entity and carried on its activities in the United Kingdom) other than lending activities or dealing on own account,
- “regulated insurer”, in relation to the relevant group, means a member of the group which –
- (a) is authorised under the law of any territory to carry on insurance business, or
  - (b) is a member of a body or organisation which is so authorised,
- “related activities” means –
- (a) activities which are ancillary to insurance activities or asset management activities of any entity which is a member of the relevant group (whether or not the entity carrying on the insurance activities or asset management activities), and
  - (b) activities which would not be carried on but for such insurance activities or asset management activities being carried on,
- but does not include dealing on own account, and
- “securities” includes –
- (a) shares,
  - (b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of that Act, and
  - (c) in the case of a company with no share capital, interests in the company possessed by members of the company.

#### PART 4

##### CHARGEABLE EQUITY AND LIABILITIES

###### *Definition of “assets”, “equity” and “liabilities”*

- 19 (1) For the purposes of this Schedule “assets”, “equity” and “liabilities” have the same meanings as they have for the purposes of international accounting standards.
- (2) Sub-paragraph (1) is subject to any provision of this Schedule which requires anything to be determined by reference to amounts disclosed, or amounts which would have been disclosed, in consolidated financial statements or financial statements prepared under US GAAP or UK GAAP.

###### *Chargeable equity and liabilities of a UK banking group or a building society group*

- 20 (1) This paragraph applies if the relevant group is a UK banking group or a building society group.
- (2) To determine the amount of the relevant group’s chargeable equity and liabilities –

- (a) determine the amount of the group’s equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 21 and 45 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by the amount of the group’s relevant high quality liquid assets.
- (3) The relevant group’s relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –
- (a) the group’s excluded equity or liabilities, or
  - (b) its liabilities left out or so far as reduced in accordance with paragraph 21 or 45.
- (4) For the purposes of this paragraph and paragraph 21 the relevant group’s assets, equity and liabilities are to be determined by reference to –
- (a) the amounts disclosed in the group’s consolidated financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so disclosed had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.
- (5) In reducing the amount of any equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.
- 21 (1) This paragraph applies for the purposes of paragraph 20(2) if –
- (a) a member (“M”) of the relevant group has liabilities to an entity (“N”) which is not a member of the group,
  - (b) M also has assets which correspond to liabilities which N has to M,
  - (c) there is in place an agreement between M and N which makes provision for there to be a single net settlement of all M’s liabilities to N (so far as covered by the provision) and all N’s liabilities to M (so far as covered by the provision) if an event mentioned in sub-paragraph (2) occurs, and
  - (d) the provision mentioned in paragraph (c) is legally enforceable.
- (2) The events referred to in sub-paragraph (1)(c) are –
- (a) the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(c) arises, or
  - (b) a default under any such arrangements.
- (3) The amount of M’s net settlement liabilities is to be reduced (but not below nil) by the amount of M’s net settlement assets.
- (4) “M’s net settlement liabilities” means M’s liabilities to N so far as they –
- (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
  - (b) are not excluded liabilities.
- (5) “M’s net settlement assets” means M’s assets so far as corresponding to N’s net settlement liabilities.



- (6) “N’s net settlement liabilities” means N’s liabilities to M so far as they are covered by the provision mentioned in sub-paragraph (1)(c).

*Chargeable equity and liabilities of a foreign banking group*

- 22 (1) This paragraph applies if the relevant group is a foreign banking group.
- (2) The amount of the chargeable equity and liabilities of the relevant group is the sum of all type A, type B, type C and type D equity and liabilities.
- (3) Type A equity and liabilities are the chargeable equity and liabilities of any relevant UK sub-group.
- (4) “UK sub-group” means a group of entities –
- (a) which is a group for the purposes of those provisions of international accounting standards or UK GAAP which relate to the preparation of consolidated financial statements,
  - (b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is a UK resident entity, and
  - (c) the members of which for the purposes of those provisions are all members of the relevant group.
- (5) A UK sub-group is “relevant” if –
- (a) consolidated financial statements for the chargeable period are prepared for it under international accounting standards or UK GAAP, and
  - (b) its members are not members of any larger UK sub-group for which such financial statements are prepared.
- (6) To determine the amount of the chargeable equity and liabilities of a relevant UK sub-group –
- (a) determine the amount of the sub-group’s equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraph 23 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by the amount of the sub-group’s relevant high quality liquid assets.
- (7) The sub-group’s relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –
- (a) the sub-group’s excluded equity or liabilities, or
  - (b) its equity or liabilities left out or so far as reduced in accordance with paragraph 23.
- (8) For the purposes of this paragraph and paragraph 23 the assets, equity and liabilities of a relevant UK sub-group are to be determined by reference to the amounts disclosed in its consolidated financial statements for the chargeable period.
- (9) Type B equity and liabilities are the chargeable equity and liabilities of any UK resident entity which –
- (a) is a member of the relevant group, but
  - (b) is not a member of a relevant UK sub-group.

- (10) Type C equity and liabilities are the chargeable equity and liabilities of any non-UK resident entity which –
- (a) is a member of the relevant group, and
  - (b) is a member of a UK sub-group but is not a member of a relevant UK sub-group.
- (11) To determine the amount of the chargeable equity and liabilities of an entity covered by sub-paragraph (9) or (10) –
- (a) determine the amount of the entity’s equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraph 23 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by the amount of the entity’s relevant high quality liquid assets.
- (12) The entity’s relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –
- (a) the entity’s excluded equity or liabilities, or
  - (b) its equity or liabilities left out or so far as reduced in accordance with paragraph 23.
- (13) For the purposes of this paragraph and paragraph 23 the assets, equity and liabilities of an entity covered by sub-paragraph (9) or (10) are to be determined by reference to –
- (a) the amounts disclosed in the entity’s financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so disclosed had such financial statements been prepared –
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the entity prepares its financial statements under.
- (14) In reducing the amount of any equity or liabilities under sub-paragraph (6)(c) or (11)(c), long term equity and liabilities are to be reduced before short term liabilities.
- (15) If the amount of the equity and liabilities, as at the end of the chargeable period, of a relevant UK sub-group or an entity covered by sub-paragraph (9) or (10) is less than £50,000,000, the equity and liabilities are to be ignored for the purposes of this paragraph and paragraph 23.
- (16) But, the total amount of equity and liabilities to be ignored under sub-paragraph (15) is limited to £200,000,000.
- (17) Type D equity and liabilities are the UK allocated equity and liabilities (see paragraph 29) as at the end of the chargeable period of any relevant foreign bank which –
- (a) is a member of the relevant group, but
  - (b) is not a member of a UK sub-group.
- 23 (1) This paragraph applies for the purposes of paragraph 22(6) and (11).
- (2) In this paragraph “relevant member” means –

- 
- (a) a relevant UK sub-group,
  - (b) a UK resident entity covered by paragraph 22(9), or
  - (c) a non-UK resident entity covered by paragraph 22(10).
- (3) Sub-paragraph (4) applies if the members of a relevant UK sub-group are also members of one or more larger UK sub-groups.
- (4) Any equity of the relevant UK sub-group is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the larger or largest UK sub-group –
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the larger or largest UK sub-group prepares its financial statements under UK GAAP.
- (5) Sub-paragraph (6) applies if a relevant member within sub-paragraph (2)(b) or (c) is a member of one or more UK sub-groups.
- (6) Any equity of the relevant member is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the UK sub-group or the largest UK sub-group –
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the UK sub-group or the largest UK sub-group prepares its financial statements under UK GAAP.
- (7) The following liabilities of a relevant member are to be left out –
- (a) liabilities to other relevant members, and
  - (b) liabilities to a relevant foreign bank covered by paragraph 22(17) so far as the bank’s assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 29(1).
- (8) Sub-paragraph (11) applies if –
- (a) an entity (“M”) within sub-paragraph (9) has liabilities to another entity (“N”) which is neither an entity within that sub-paragraph nor a relevant foreign bank covered by paragraph 22(17),
  - (b) M also has assets which correspond to liabilities which N has to M,
  - (c) there is in place an agreement between M and N which makes provision for there to be a single net settlement of all M’s liabilities to N (so far as covered by the provision) and all N’s liabilities to M (so far as covered by the provision) if an event mentioned in sub-paragraph (10) occurs, and
  - (d) the provision mentioned in paragraph (c) is legally enforceable.
- (9) An entity is within this sub-paragraph if it is –
- (a) a member of a relevant UK sub-group, or
  - (b) a relevant member within sub-paragraph (2)(b) or (c).
- (10) The events referred to in sub-paragraph (8)(c) are –

- (a) the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (8)(c) arises, or
  - (b) a default under any such arrangements.
- (11) The amount of M’s net settlement liabilities is to be reduced (but not below nil) by the amount of M’s net settlement assets.
- (12) “M’s net settlement liabilities” means M’s liabilities to N so far as they –
- (a) are covered by the provision mentioned in sub-paragraph (8)(c), and
  - (b) are not excluded liabilities.
- (13) “M’s net settlement assets” means M’s assets so far as corresponding to N’s net settlement liabilities.
- (14) “N’s net settlement liabilities” means N’s liabilities to M so far as they are covered by the provision mentioned in sub-paragraph (8)(c).

*Chargeable equity and liabilities of a relevant non-banking group*

- 24 (1) This paragraph applies if the relevant group is a relevant non-banking group.
- (2) The amount of the chargeable equity and liabilities of the relevant group is the sum of all type A, type B, type C and type D equity and liabilities.
- (3) Type A equity and liabilities are the chargeable equity and liabilities of any relevant UK banking sub-group.
- (4) “UK banking sub-group” means a group of entities –
- (a) which is a group for the purposes of those provisions of international accounting standards or UK GAAP which relate to the preparation of consolidated financial statements,
  - (b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is a UK resident bank, and
  - (c) the members of which are all members of the relevant group.
- (5) A UK banking sub-group is “relevant” if –
- (a) consolidated financial statements for the chargeable period are prepared for it under international accounting standards or UK GAAP, and
  - (b) its members are not members of any larger UK banking sub-group for which such financial statements are prepared.
- (6) To determine the amount of the chargeable equity and liabilities of a relevant UK banking sub-group –
- (a) determine the amount of the sub-group’s equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust the amount in accordance with paragraphs 25 and 45 (so far as applicable), and
  - (c) finally, reduce the amount (but not below nil) by the amount of the sub-group’s relevant high quality liquid assets.
- (7) The sub-group’s relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –

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- (a) the sub-group's excluded equity or liabilities, or
  - (b) its equity or liabilities left out or so far as reduced in accordance with paragraph 25 or 45.
- (8) For the purposes of this paragraph and paragraph 25 the assets, equity and liabilities of a relevant UK banking sub-group are to be determined by reference to the amounts disclosed in its consolidated financial statements for the chargeable period.
- (9) Type B equity and liabilities are the chargeable equity and liabilities of any UK resident bank which—
- (a) is a member of the relevant group, but
  - (b) is not a member of a relevant UK banking sub-group.
- (10) Type C equity and liabilities are the chargeable equity and liabilities of any entity (apart from a UK resident bank) which—
- (a) is a member of the relevant group, and
  - (b) is a member of a UK banking sub-group but is not a member of a relevant UK banking sub-group.
- (11) To determine the amount of the chargeable equity and liabilities of an entity covered by sub-paragraph (9) or (10)—
- (a) determine the amount of the entity's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust the amount in accordance with paragraphs 25 and 45 (so far as applicable), and
  - (c) finally, reduce the amount (but not below nil) by the amount of the entity's relevant high quality liquid assets.
- (12) The entity's relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of—
- (a) the entity's excluded equity or liabilities, or
  - (b) its equity or liabilities left out or so far as reduced in accordance with paragraph 25 or 45.
- (13) For the purposes of this paragraph and paragraph 25 the assets, equity and liabilities of an entity covered by sub-paragraph (9) or (10) are to be determined by reference to—
- (a) the amounts disclosed in the entity's financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so disclosed had such financial statements been prepared—
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the entity prepares its financial statements under.
- (14) In reducing the amount of any equity or liabilities under sub-paragraph (6)(c) or (11)(c), long term equity and liabilities are to be reduced before short term liabilities.
- (15) If the amount of the equity and liabilities, as at the end of the chargeable period, of a relevant UK banking sub-group or an entity covered by sub-

paragraph (9) or (10) is less than £50,000,000, the equity and liabilities are to be ignored for the purposes of this paragraph and paragraph 25.

- (16) But, the total amount of equity and liabilities to be ignored under sub-paragraph (15) is limited to £200,000,000.
- (17) Type D equity and liabilities are the UK allocated equity and liabilities (see paragraph 29) as at the end of the chargeable period of any relevant foreign bank which –
- (a) is a member of the relevant group, but
  - (b) is not a member of a UK banking sub-group.
- 25 (1) This paragraph applies for the purposes of paragraph 24(6) and (11).
- (2) In this paragraph “relevant member” means –
- (a) a relevant UK banking sub-group,
  - (b) a UK resident bank covered by paragraph 24(9), or
  - (c) an entity covered by paragraph 24(10).
- (3) Sub-paragraph (4) applies if the members of a relevant UK banking sub-group are also members of one or more larger UK banking sub-groups.
- (4) Any equity of the relevant UK banking sub-group is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the larger or largest UK banking sub-group –
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the larger or largest UK banking sub-group prepares its financial statements under UK GAAP.
- (5) Sub-paragraph (6) applies if a relevant member within sub-paragraph (2)(b) or (c) is a member of one or more UK banking sub-groups.
- (6) Any equity of the relevant member is to be left out so far as it would have been eliminated under normal consolidation procedures had consolidated financial statements for the chargeable period been prepared for the UK banking sub-group or the largest UK banking sub-group –
- (a) under international accounting standards, or
  - (b) under UK GAAP if the entity which is the parent or parent undertaking for the UK banking sub-group or the largest UK banking sub-group prepares its financial statements under UK GAAP.
- (7) The following liabilities of a relevant member are to be left out –
- (a) liabilities to other relevant members, and
  - (b) liabilities to a relevant foreign bank covered by paragraph 24(17) so far as the bank’s assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 29(1).
- (8) Sub-paragraph (11) applies if –
- (a) an entity (“M”) within sub-paragraph (9) has liabilities to another entity (“N”) which is neither an entity within that sub-paragraph nor a relevant foreign bank covered by paragraph 24(17),

- (b) M also has assets which correspond to liabilities which N has to M,
  - (c) there is in place an agreement between M and N which makes provision for there to be a single net settlement of all M's liabilities to N (so far as covered by the provision) and all N's liabilities to M (so far as covered by the provision) if an event mentioned in sub-paragraph (10) occurs, and
  - (d) the provision mentioned in paragraph (c) is legally enforceable.
- (9) An entity is within this sub-paragraph if it is –
- (a) a member of a relevant UK banking sub-group, or
  - (b) a relevant member within sub-paragraph (2)(b) or (c).
- (10) The events referred to in sub-paragraph (8)(c) are –
- (a) the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (8)(c) arises, or
  - (b) a default under any such arrangements.
- (11) The amount of M's net settlement liabilities is to be reduced (but not below nil) by the amount of M's net settlement assets.
- (12) "M's net settlement liabilities" means M's liabilities to N so far as they –
- (a) are covered by the provision mentioned in sub-paragraph (8)(c), and
  - (b) are not excluded liabilities.
- (13) "M's net settlement assets" means M's assets so far as corresponding to N's net settlement liabilities.
- (14) "N's net settlement liabilities" means N's liabilities to M so far as they are covered by the provision mentioned in sub-paragraph (8)(c).

*Chargeable equity and liabilities of UK resident banks and building societies which are not members of groups*

- 26 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 10 and the relevant entity is a UK resident bank or a building society.
- (2) To determine the amount of the relevant entity's chargeable equity and liabilities –
- (a) determine the amount of the entity's equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with paragraphs 27 and 45 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by the amount of the entity's relevant high quality liquid assets.
- (3) The relevant entity's relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –
- (a) the entity's excluded equity or liabilities, or
  - (b) its liabilities left out or so far as reduced in accordance with paragraph 27 or 45.
- (4) For the purposes of this paragraph and paragraph 27 the relevant entity's assets, equity and liabilities are to be determined by reference to the

amounts disclosed in the entity’s financial statements for the chargeable period as prepared under international accounting standards or UK GAAP.

- (5) In reducing the amount of any equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.
- 27 (1) This paragraph applies for the purposes of paragraph 26(2) if—
- (a) the relevant entity has liabilities to another entity (“N”),
  - (b) the relevant entity also has assets which correspond to liabilities which N has to the relevant entity,
  - (c) there is in place an agreement between the relevant entity and N which makes provision for there to be a single net settlement of all the relevant entity’s liabilities to N (so far as covered by the provision) and all N’s liabilities to the relevant entity (so far as covered by the provision) if an event mentioned in sub-paragraph (2) occurs, and
  - (d) the provision mentioned in paragraph (c) is legally enforceable.
- (2) The events referred to in sub-paragraph (1)(c) are—
- (a) the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(c) arises, or
  - (b) a default under any such arrangements.
- (3) The amount of the relevant entity’s net settlement liabilities is to be reduced (but not below nil) by the amount of the entity’s net settlement assets.
- (4) The relevant entity’s “net settlement liabilities” are its liabilities to N so far as they—
- (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
  - (b) are not excluded liabilities.
- (5) The relevant entity’s “net settlement assets” are its assets so far as corresponding to N’s net settlement liabilities.
- (6) “N’s net settlement liabilities” means N’s liabilities to the relevant entity so far as they are covered by the provision mentioned in sub-paragraph (1)(c).

*Chargeable equity and liabilities of relevant foreign banks which are not members of groups*

- 28 (1) This paragraph applies where the bank levy is charged as provided for by paragraph 10 and the relevant entity is a relevant foreign bank.
- (2) The chargeable equity and liabilities of the relevant entity is the amount of its UK allocated equity and liabilities (see paragraph 29) as at the end of the chargeable period.

*Definition of “UK allocated equity and liabilities”*

- 29 (1) Take Steps 1 to 4 to determine the amount of the UK allocated equity and liabilities of a relevant foreign bank as at the end of the chargeable period. Take Steps 5 and 6 to determine how much of that amount is to be treated as long term equity and liabilities and how much as short term liabilities for the purposes of Step 3 in paragraph 11(2).



*Step 1*

Determine the amount (“A”) of the bank’s assets as at the end of the chargeable period (subject to any adjustment under paragraph 30(4)).

*Step 2*

In accordance with paragraph 31, determine the amount (“B”) of the assets, as at the end of the chargeable period, of the permanent establishment through which the bank carries on a trade in the United Kingdom (subject to any adjustment under paragraph 30(5)).

The proportion which B is of A is “X%”.

*Step 3*

In accordance with paragraph 32, determine the amount (“C”) of the bank’s chargeable equity and liabilities.

*Step 4*

The amount of the UK allocated equity and liabilities is X% of C.

*Step 5*

Determine the proportion (“Y%”) of C which is long term equity and liabilities.

*Step 6*

For the purposes of Step 3 in paragraph 11(2), treat Y% of the amount of the UK allocated equity and liabilities as long term equity and liabilities and the rest as short term liabilities.

- (2) For the purposes of this paragraph and paragraphs 30 to 32 assets, equity and liabilities of a relevant foreign bank or the permanent establishment through which it carries on a trade in the United Kingdom are to be determined by reference to—
- (a) the amounts disclosed in the bank’s financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
  - (b) if no such financial statements are prepared, the amounts which would have been so disclosed had such financial statements been prepared—
    - (i) under international accounting standards, or
    - (ii) under UK GAAP if that is what the bank prepares its financial statements under.
- 30 (1) This paragraph applies if—
- (a) the relevant foreign bank has liabilities to another entity (“N”) (subject to sub-paragraph (2)),
  - (b) the bank also has assets which correspond to liabilities which N has to the bank,
  - (c) there is in place an agreement between the bank and N which makes provision for there to be a single net settlement of all the bank’s liabilities to N (so far as covered by the provision) and all N’s liabilities to the bank (so far as covered by the provision) if an event mentioned in sub-paragraph (3) occurs, and
  - (d) the provision mentioned in paragraph (c) is legally enforceable.

- (2) If the UK allocated equity and liabilities of the bank are being determined for the purposes of paragraph 22(17) or 24(17), this paragraph does not apply if N is –
    - (a) an entity within paragraph 23(9) or 25(9) (as the case may be), or
    - (b) another relevant foreign bank covered by paragraph 22(17) or 24(17) (as the case may be).
  - (3) The events referred to in sub-paragraph (1)(c) are –
    - (a) the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(c) arises, or
    - (b) a default under any such arrangements.
  - (4) In determining the amount of the bank’s assets at Step 1 in paragraph 29(1), the amount of the bank’s net settlement assets is to be reduced (but not below nil) by the amount of the bank’s net settlement liabilities.
  - (5) In determining the amount of the permanent establishment’s assets at Step 2 in paragraph 29(1) –
    - (a) the reduction in the bank’s assets under sub-paragraph (4) is to be ignored, but
    - (b) the amount of the permanent establishment’s net settlement assets is to be reduced by Z%.
  - (6) For this purpose, “Z%” is the proportion by which the bank’s net settlement assets are reduced under sub-paragraph (4).
  - (7) In determining the amount of the bank’s chargeable equity and liabilities at Step 3 in paragraph 29(1), the amount of the bank’s net settlement liabilities is to be reduced (but not below nil) by the amount of the bank’s net settlement assets (ignoring the reduction under sub-paragraph (4)).
  - (8) The bank’s “net settlement liabilities” are its liabilities to N so far as they –
    - (a) are covered by the provision mentioned in sub-paragraph (1)(c), and
    - (b) are not excluded liabilities.
  - (9) The bank’s “net settlement assets” are its assets so far as corresponding to N’s net settlement liabilities.
  - (10) “N’s net settlement liabilities” means N’s liabilities to the bank so far as they are covered by the provision mentioned in sub-paragraph (1)(c).
  - (11) The permanent establishment’s “net settlement assets” are its assets so far as they are part of the bank’s net settlement assets.
- 31 (1) This paragraph applies for the purposes of Step 2 in paragraph 29(1).
- (2) The assets of the permanent establishment are those which it would have were it a distinct and separate enterprise which –
    - (a) engaged in the same or similar activities under the same or similar conditions, and
    - (b) dealt wholly independently with the relevant foreign bank.
  - (3) For this purpose, any relevant provisions of sections 21 to 28 of CTA 2009 are to be applied as they would be applied in determining profits attributable to the permanent establishment for corporation tax purposes.

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- (4) But where paragraph 29(1) is being applied in determining the UK allocated equity and liabilities of a relevant foreign bank for the purposes of paragraph 22(17) or 24(17), any assets within sub-paragraph (5) are to be left out.
- (5) The assets within this sub-paragraph are any assets of the permanent establishment (as otherwise determined under this paragraph) representing an excluded loan relationship.
- (6) A loan relationship is “excluded” if –
- (a) the relevant foreign bank is the creditor,
  - (b) the debtor (“D”) is a UK resident bank or another relevant foreign bank –
    - (i) which is a member of the relevant group, and
    - (ii) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 64(a),
  - (c) the money which is the subject of the transaction giving rise to D’s debt is money borrowed by the relevant foreign bank from another entity, and
  - (d) in borrowing that money the relevant foreign bank was acting as the agent or intermediary of D.
- (7) Section 302(1) of CTA 2009 (definition of “loan relationship”) applies for the purposes of sub-paragraphs (5) and (6) as it applies for corporation tax purposes.
- 32 (1) This paragraph applies for the purposes of Step 3 in paragraph 29(1).
- (2) To determine the amount of the relevant foreign bank’s chargeable equity and liabilities –
- (a) determine the amount of the bank’s equity and liabilities (other than excluded equity and liabilities) as at the end of the chargeable period,
  - (b) adjust that amount in accordance with sub-paragraph (3) and paragraphs 30(7) and 45 (so far as applicable), and
  - (c) finally, reduce that amount (but not below nil) by the amount of the entity’s relevant high quality liquid assets (see sub-paragraph (4)).
- (3) Where paragraph 29(1) is being applied in determining the UK allocated equity and liabilities of a relevant foreign bank for the purposes of paragraph 22(17) or 24(17), the following liabilities are to be left out –
- (a) any liabilities to a relevant member as defined in paragraph 23(2) or 25(2) (as the case may be), or
  - (b) any liabilities to another relevant foreign bank covered by paragraph 22(17) or 24(17) (as the case may be) so far as the other bank’s assets corresponding to the liabilities are assets of the permanent establishment through which the other bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 29(1).
- (4) The relevant foreign bank’s relevant high quality liquid assets are its high quality liquid assets as at the end of the chargeable period so far as those assets are not specifically held to cover any of –
- (a) the bank’s excluded equity or liabilities, or
  - (b) its liabilities left out or so far as reduced in accordance with sub-paragraph (3) or paragraph 30(7) or 45.

- (5) In reducing any amount of equity or liabilities under sub-paragraph (2)(c), long term equity and liabilities are to be reduced before short term liabilities.

*“Excluded” equity and liabilities*

- 33 (1) Equity or liabilities are “excluded” so far as they consist of equity or liabilities which are specified to be excluded –
- (a) by any of paragraphs 34 to 42, or
  - (b) by an order made by the Treasury by statutory instrument.
- (2) An order under this paragraph may repeal or amend any of paragraphs 34 to 42.
- (3) A statutory instrument containing an order under this paragraph may not be made unless a draft has been laid before and approved by a resolution of the House of Commons.
- 34 (1) Liabilities representing protected deposits are excluded.
- (2) A deposit is “protected” so far as it is covered by the Financial Services Compensation Scheme under section 213 of FISMA 2000 (“the FSCS”).
- (3) In sub-paragraph (2) “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).
- (4) A deposit is “protected” so far as it is covered by a scheme which –
- (a) operates outside the United Kingdom, and
  - (b) is comparable to the FSCS.
- (5) Sub-paragraph (6) applies for the purposes of sub-paragraph (4) if –
- (a) the entity holding the deposit (“the relevant deposit”) is required to pay, in relation to the scheme, levies for purposes comparable with those mentioned in section 213(3)(b) of FISMA 2000,
  - (b) those levies are calculated by reference to a proportion (“X%”) of the total amount of –
    - (i) all deposits held by the entity, or
    - (ii) all deposits held by the entity within a specified class within which the relevant deposit falls, and
  - (c) X% exceeds the proportion (“Y%”) of the relevant deposit covered by the scheme.
- (6) The scheme is treated as covering X% of the relevant deposit (instead of Y%).
- (7) A deposit is “protected” so far as it is covered by a guarantee –
- (a) which is given explicitly by a national government (other than the government of the United Kingdom), and
  - (b) under which the government guarantees to compensate depositors for losses on their deposits.
- (8) In sub-paragraphs (4) to (7) “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) but ignoring the exclusions in articles 6 to 9AB.
- (9) If two or all of sub-paragraphs (2), (4) and (7) apply to a deposit, the amount of the deposit “protected” is the highest amount which results from any one of those sub-paragraphs.

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- 35 (1) Equity and liabilities which are “tier one capital equity and liabilities” are excluded.
- (2) “Tier one capital equity and liabilities” means, in relation to an entity or a group of entities, so much of the entity or group’s equity and liabilities which would be treated as tier one capital for the purposes of the FSA Handbook were the tier one capital of the entity or group as at the end of the chargeable period to be determined under that Handbook.
- 36 (1) Relevant insurance liabilities are excluded.
- (2) “Relevant insurance liabilities” means liabilities of a regulated insurer carrying on an insurance business which are –
- (a) liabilities to policyholders under contracts of long-term insurance,
  - (b) liabilities representing unappropriated surpluses, or
  - (c) liabilities representing participants’ interests in collective investment schemes.
- (3) In this paragraph –
- “collective investment scheme” has the same meaning as in Part 17 of FISMA 2000 (see sections 235 and 237 of that Act),
  - “contract of long-term insurance” means a contract within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544),
  - “regulated insurer” means an entity which –
    - (a) is authorised under the law of any territory to carry on insurance business, or
    - (b) is a member of a body or organisation which is so authorised, and
  - “unappropriated surplus” means an unappropriated surplus on valuation shown in a return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook for Insurers made by that Authority under FISMA 2000.
- 37 (1) Relevant property, plant and equipment reserves are excluded.
- (2) “Relevant property, plant and equipment reserves” means equity amounts representing revaluation reserves relating to the revaluation of property, plant and equipment under International Accounting Standard 16 or Financial Reporting Standard 15.
- (3) “Property, plant and equipment” has the meaning given, for the time being, by International Accounting Standard 16.
- 38 (1) Relevant tax liabilities are excluded.
- (2) In relation to liabilities to be determined by reference to amounts disclosed, or which would have been disclosed, in consolidated financial statements or financial statements prepared under international accounting standards, “relevant tax liabilities” means liabilities representing –
- (a) current tax or deferred tax liabilities within the meaning, for the time being, of International Accounting Standard 12, or
  - (b) an amount of the bank levy.
- (3) In relation to liabilities to be determined by reference to amounts disclosed, or which would have been disclosed, in consolidated financial statements or

financial statements prepared under UK GAAP, “relevant tax liabilities” means liabilities representing –

- (a) current tax or deferred tax within the meaning, for the time being, of Financial Reporting Standard 16 or 19, or
- (b) an amount of the bank levy.

- 39 (1) Relevant retirement benefit liabilities are excluded.
- (2) In relation to liabilities to be determined by reference to amounts disclosed, or which would have been disclosed, in consolidated financial statements or financial statements prepared under international accounting standards, “relevant retirement benefit liabilities” means liabilities under defined benefit plans within the meaning, for the time being, of International Accounting Standard 19.
- (3) In relation to liabilities to be determined by reference to amounts disclosed, or which would have been disclosed, in consolidated financial statements or financial statements prepared under UK GAAP, “relevant retirement benefit liabilities” means liabilities under defined benefit schemes within the meaning, for the time being, of Financial Reporting Standard 17.
- 40 (1) Financial services compensation scheme liabilities are excluded.
- (2) “Financial services compensation scheme liabilities” means liabilities representing –
- (a) levies payable by virtue of section 213(2)(b) of FISMA 2000, or
  - (b) levies payable for purposes comparable with those mentioned in section 213(2)(b) of that Act in relation to a scheme which –
    - (i) operates outside the United Kingdom, and
    - (ii) is comparable to the Financial Services Compensation Scheme under section 213 of that Act.
- 41 (1) Liabilities representing clients’ money held by an authorised person are excluded.
- (2) “Authorised person” means an entity which –
- (a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or
  - (b) would be such an authorised person if it were a UK resident entity which carried on its activities in the United Kingdom.
- (3) “Clients’ money” –
- (a) in relation to an authorised person within sub-paragraph (2)(a), has the meaning given by section 139(1) of FISMA 2000 (rules relating to handling of money), and
  - (b) in relation to an authorised person within sub-paragraph (2)(b), means any money held by the person outside the United Kingdom where the holding of that money is subject to rules comparable with rules made under section 139 of that Act,
- but does not include a deposit within the meaning of article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) ignoring the exclusions in articles 6 to 9AB.

- 42 (1) Currency liabilities are excluded.

- (2) “Currency liabilities” means liabilities of an entity or a group of entities representing notes issued by the entity or a member of the group as currency.

## PART 5

## SUPPLEMENTARY PROVISION

*Financial statements etc*

- 43 (1) This paragraph applies for the purposes of this Schedule.
- (2) References to consolidated financial statements for a period include references to a consolidated balance sheet (or consolidated statement of financial position) as at the last day of the period.
- (3) References to financial statements for a period include references to a balance sheet (or statement of financial position) as at the last day of the period.
- (4) References to amounts disclosed in consolidated financial statements or financial statements include references to an amount comprised in an amount so disclosed.
- (5) Sub-paragraph (6) applies if an amount for the chargeable period, or as at the last day of the chargeable period, is so disclosed in a currency other than sterling.
- (6) The amount is to be translated into its sterling equivalent by reference to the spot rate of exchange for the last day of the chargeable period.
- (7) If consolidated financial statements or financial statements for the chargeable period are not prepared in a way which complies with the relevant accounting framework under which the statements are prepared, the statements are to be adjusted as necessary to ensure that they comply.
- (8) In sub-paragraph (7) “relevant accounting framework” means –
- (a) international accounting standards,
  - (b) US GAAP, or
  - (c) UK GAAP.
- (9) In relation to the preparation of consolidated financial statements or financial statements under UK GAAP, Financial Reporting Standard 23 and Financial Reporting Standard 26 are to be treated as if they were mandatory for all entities.
- (10) Accordingly, if any statements are prepared under UK GAAP without one or both of those Standards being applied, the statements are to be treated as not complying with UK GAAP and adjusted under sub-paragraph (7) accordingly.

*Joint ventures*

- 44 (1) This paragraph applies if –
- (a) the relevant group is a foreign banking group or a relevant non-banking group,

- (b) a member of the relevant group has an interest (“the relevant interest”) in a joint venture for the purposes of those provisions of the applicable accounting standards which relate to joint ventures,
  - (c) the amounts disclosed in the relevant consolidated financial statements include amounts representing the liabilities (“the JV liabilities”) of the joint venture so far as determined by the relevant interest,
  - (d) the joint venture is a UK resident entity or, if the relevant group is a relevant non-banking group, a UK resident bank, and
  - (e) none of the liabilities of a relevant UK sub-group, a relevant UK banking sub-group or any entity for the purposes of (as the case may be) paragraph 22(6)(a) or (11)(a), 24(6)(a) or (11)(a) or 32(2)(a) include the JV liabilities.
- (2) For the purpose of determining the chargeable equity and liabilities of the relevant group the joint venture is to be treated as if it were (as the case may be) a UK resident entity covered by paragraph 22(9) or a UK resident bank covered by paragraph 24(9) –
- (a) the liabilities of which consist of the JV liabilities, and
  - (b) the assets of which consist of the assets of the joint venture so far as determined by the relevant interest.
- (3) In this paragraph references to the amounts disclosed in the relevant consolidated financial statements are to –
- (a) the amounts disclosed in the relevant group’s consolidated financial statements for the chargeable period as prepared under the applicable accounting standards, or
  - (b) if no such financial statements are prepared, the amounts which would have been so disclosed had consolidated financial statements for the relevant group been prepared for the chargeable period under international accounting standards.
- (4) “The applicable accounting standards” means –
- (a) international accounting standards, or
  - (b) US GAAP if the members of the relevant group are determined under paragraph 9(7).
- 45 (1) This paragraph applies for the purpose of determining the chargeable equity and liabilities of the relevant group or the relevant entity if, as at the end of the chargeable period –
- (a) the parent entity or the relevant entity is a joint venture for the purposes of a JV standard, and
  - (b) the liabilities of the parent entity or the relevant entity include liabilities (“the JV liabilities”) which are subject to a double charge.
- (2) The JV liabilities are to be left out for the purpose of determining the chargeable equity and liabilities.
- (3) The JV liabilities are subject to a double charge if conditions A and B are met.
- (4) Condition A is that an entity (“V”) which has an interest in the joint venture for the purposes of the JV standard –
- (a) is an entity in relation to which paragraph 9(1) or 10(1) applies as at the end of the chargeable period (or in relation to which paragraph



- 9(1) or 10(1) would apply if V had a period of account ending at the same time as the chargeable period), or
- (b) falls within sub-paragraph (5).
- (5) V falls within this sub-paragraph if –
- (a) there is another entity (“A”) in relation to which paragraph 9(1) applies as at the end of the chargeable period (or in relation to which paragraph 9(1) would apply if A had a period of account ending at the same time as the chargeable period), and
- (b) V is (or would be) a member of the relevant group.
- (6) Condition B is that –
- (a) in the circumstances mentioned in sub-paragraph (4)(a) or sub-paragraph (4)(b) (when read with sub-paragraph (5)), the bank levy is charged (or would be charged), and
- (b) in determining the amount of the bank levy, the JV liabilities are (or would be) liabilities for the purposes of paragraph 20(2)(a), 22(6)(a) or (11)(a), 24(6)(a) or (11)(a), 26(2)(a) or 32(2)(a) by virtue of V having an interest in the joint venture.
- (7) “JV standard” means those provisions of international accounting standards or UK GAAP which relate to joint ventures.

*Residence*

- 46 For the purposes of this Schedule the territory in which an entity is resident is to be determined as for corporation tax purposes.

*Bank levy to be ignored for other tax purposes*

- 47 In calculating profits or losses for the purposes of income tax or corporation tax –
- (a) no deduction is allowed in respect of the bank levy, and
- (b) no account is to be taken of any amount which is paid by a member of the relevant group to another member of the group for the purposes of meeting or reimbursing the cost of the bank levy charged in relation to the group.

*Anti-avoidance*

- 48 (1) Sub-paragraph (2) applies if –
- (a) arrangements are entered into by one or more persons, and
- (b) the main purpose, or one of the main purposes, of the person, or any of the persons, in entering into the arrangements is to avoid or reduce a liability for the bank levy.
- (2) Except so far as an officer of Revenue or Customs is satisfied that sub-paragraph (3) or (4) applies to the arrangements, this Schedule applies as if the arrangements had not been entered into (and whatever assumptions and adjustments need to be made for this purpose are to be made accordingly).
- (3) This sub-paragraph applies to the arrangements so far as their effect is –
- (a) to reduce by a certain amount a relevant body’s ongoing reliance on funding from sources which are not excluded equity or liabilities, and

- (b) correspondingly to increase by that amount the relevant body’s ongoing reliance on funding from sources which are excluded equity or liabilities.
- (4) This sub-paragraph applies to the arrangements so far as their effect is –
- (a) to reduce by a certain amount a relevant body’s ongoing reliance on funding from sources which are short term liabilities (other than excluded liabilities), and
  - (b) correspondingly to increase by that amount the relevant body’s ongoing reliance on funding from sources which are –
    - (i) equity (other than excluded equity), or
    - (ii) long term liabilities (other than excluded liabilities).
- (5) “Relevant body” means –
- (a) a group of entities which, if it were the relevant group, would be a banking group, a building society group or a relevant non-banking group, or
  - (b) a UK resident bank, a relevant foreign bank or a building society.
- 49 (1) Section 1139 of CTA 2010 (definition of “tax advantage”) is amended as follows.
- (2) In subsection (2) –
- (a) omit the “or” after paragraph (c), and
  - (b) after paragraph (d) insert “, or
  - (e) the avoidance or reduction of a liability for the bank levy under Schedule 1 to FA 2011 (the bank levy)”.

## PART 6

### COLLECTION AND MANAGEMENT

#### *Responsibility for collection and management*

- 50 The Commissioners of Her Majesty’s Revenue and Customs are responsible for the collection and management of the bank levy.

#### *Entity liable to pay bank levy*

- 51 (1) Where the bank levy is charged as provided for by paragraph 9 or 10, this paragraph applies for the purpose of determining the entity which is required to pay the levy.
- (2) [.....]

## PART 7

### DOUBLE TAXATION RELIEF

#### *Arrangements affording double taxation relief*

- 52 (1) If the Treasury by order declares –
- (a) that arrangements specified in the order have been made in relation to any foreign territory with a view to affording relief from double

- taxation in relation to the bank levy and any equivalent foreign levy,  
and
- (b) that it is expedient that those arrangements should have effect,  
those arrangements (“double taxation arrangements”) have effect so far as  
they provide for relief from the bank levy.
- (2) In this Part of this Schedule –  
“equivalent foreign levy”, in relation to a foreign territory, means any  
tax imposed by the law of that territory which corresponds to the  
bank levy;  
“foreign territory” means a territory outside the United Kingdom.
- (3) For the purposes of sub-paragraph (2), tax may correspond to the bank levy  
even though –  
(a) the tax is payable under the law of a province, state or other part of  
a country,  
(b) it is levied by or on behalf of a municipality or other local body, or  
(c) its proceeds form a fund used for a particular purpose.
- (4) Double taxation arrangements have effect under sub-paragraph (1) –  
(a) subject to the following provisions of this paragraph, and  
(b) despite anything in any other enactment.
- (5) This paragraph gives effect to arrangements even if they provide for relief  
from the bank levy for periods before the making of the arrangements or  
before the passing of this Act.
- (6) Relief under this paragraph requires a claim.
- (7) An order under this paragraph revoking an earlier order may contain  
transitional provisions that appear to the Treasury to be necessary or  
expedient.
- (8) The Treasury may by regulations make provision –  
(a) generally for carrying out the provisions of this paragraph or double  
taxation arrangements;  
(b) for removing, or reducing the amount of, relief obtained by virtue of  
double taxation arrangements in circumstances where a scheme or  
arrangement of a specified description has been made or in other  
specified circumstances;  
(c) for restricting the amount of relief allowed against an entity’s  
liability for the bank levy for a chargeable period to an amount  
calculated in a specified manner.
- (9) Orders or regulations under this paragraph are to be made by statutory  
instrument.
- (10) A statutory instrument containing an order or regulations under this  
paragraph is subject to annulment in pursuance of a resolution of the House  
of Commons.

*Power to provide for double taxation relief*

- 53 (1) The Treasury may by regulations make provision for relief from the bank  
levy for the purpose of affording relief from double taxation in relation to the

- bank levy and any equivalent foreign levy imposed by the law of a foreign territory.
- (2) Regulations under this paragraph must specify the equivalent foreign levy or levies in respect of which they are made.
- (3) Regulations under this paragraph may, in particular –
- (a) provide for relief from the bank levy for periods before the making of the regulations or before the passing of this Act;
  - (b) make provision for removing, or reducing the amount of, relief obtained in circumstances where a scheme or arrangement of a specified description has been made or in other specified circumstances;
  - (c) make provision for restricting the amount of relief allowed against an entity's liability for the bank levy for a chargeable period to an amount calculated in a specified manner;
  - (d) contain transitional provisions that appear to the Treasury to be necessary or expedient.
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph –
- (a) in a case where the reciprocity condition is met, are subject to annulment in pursuance of a resolution of the House of Commons, and
  - (b) in any other case, may not be made unless a draft has been laid before and approved by a resolution of that House.
- (6) The reciprocity condition is met if the Treasury is satisfied that in relation to the foreign territory or each of the foreign territories concerned –
- (a) appropriate provision has been made under the law of the territory for relief from double taxation in relation to the bank levy and the equivalent foreign levy under the law of that territory to which the regulations apply, or
  - (b) such provision will be made as a result of an agreement which has been entered into in relation to the territory.

*Disclosure of information to foreign tax authorities*

- 54 (1) Sub-paragraph (2) applies if the law of a foreign territory makes provision allowing, in respect of payments of the bank levy, relief from an equivalent foreign levy payable under that law.
- (2) No obligation as to secrecy or other restriction on the disclosure of information prevents the Commissioners for Her Majesty's Revenue and Customs, or an officer of Revenue and Customs, from disclosing to the authorised officer of the authorities of the territory such facts as may be necessary to enable the proper relief to be given under the law of the territory.

## PART 8

## DEFINITIONS

*General*

55 (1) In this Schedule –

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not it is legally enforceable),

“asset management activities” is defined in paragraph 56,

“assets” is defined in paragraph 19,

“banking group” is defined in paragraph 17,

“the bank levy” is defined in paragraph 1,

“building society” means a building society within the meaning of the Building Societies Act 1986,

“building society group” is defined in paragraph 14,

“capital resources condition” is defined in paragraph 57,

“the chargeable period” is defined in paragraph 9(1) or 10(1) (as the case may be),

“company” has the meaning given by section 1121(1) of CTA 2010,

“contract of insurance” has the meaning given by article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544),

“entity” includes a company, a partnership, a joint venture or any other person,

“equity” is defined in paragraph 19,

“excluded”, in relation to equity and liabilities, is defined in paragraph 33,

“excluded entity” is defined in paragraph 58,

“exempt activities condition” is defined in paragraph 18,

“foreign banking group” is defined in paragraph 15,

“the FSA Handbook” means the Handbook of Rules and Guidance made by the Financial Services Authority (as that Handbook has effect from time to time),

“high quality liquid asset” means an asset within section BIPRU 12.7.2(1) to (4) of the FSA Handbook,

“international accounting standards” has the meaning given by section 1127(5) of CTA 2010, including any modifications mentioned in section 1127(6),

“liabilities” is defined in paragraph 19,

“long term”, in relation to equity and liabilities, is defined in paragraphs 59 to 62,

“the parent entity” is defined in paragraph 9(1),

“partnership” includes –

(a) a limited liability partnership, and

(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and “member”, in relation to a partnership, is to be read accordingly,

“period of account”, in relation to an entity, means a period for which the entity prepares financial statements (consolidated or otherwise),

“permanent establishment” is to be read in accordance with Chapter 2 of Part 24 of CTA 2010,

“the relevant entity” is defined in paragraph 10(1),

“relevant foreign bank” is defined in paragraph 63,

“the relevant group” is defined in paragraph 9(1),

“relevant non-banking group” is defined in paragraph 16,

“relevant regulated activity” is defined in paragraph 64,

“relevant UK banking sub-group” is defined in paragraph 24(5),

“relevant UK sub-group” is defined in paragraph 22(5),

“short term”, in relation to liabilities, means any liabilities which are not long term,

“UK allocated equity and liabilities” is defined in paragraph 29,

“UK banking sub-group” is defined in paragraph 24(4),

“UK GAAP” means UK generally accepted accounting practice as defined in section 1127(2) of CTA 2010,

“UK resident bank” is defined in paragraph 65,

“UK resident entity” means an entity which is resident in the United Kingdom (see paragraph 46) and “non-UK resident entity” is to be read accordingly,

“UK sub-group” is defined in paragraph 22(4), and

“US GAAP” means United States Generally Accepted Accounting Principles.

(2) In this Schedule the following terms have the meaning given in the FSA Handbook –

“authorised corporate director”,

“BIPRU 730k firm”,

“capital resources requirement”,

“contracts for differences”,

“discretionary investment manager”,

“exempt BIPRU commodities firm”,

“full scope BIPRU investment firm”,

“pension scheme”,

“principal”, and

“retail client”.

(3) A entity which would be a BIPRU 730k firm and a full scope BIPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom is to be treated as being one.

*“Asset management activities”*

- 56 (1) “Asset management activities” means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following –
- (a) acting as the operator of a collective investment scheme (within the meaning of Part 17 of FISMA 2000: see sections 235 and 237 of that Act),

- (b) acting as a discretionary investment manager for clients none of which is a linked entity, and
  - (c) acting as an authorised corporate director.
- (2) In sub-paragraph (1), “linked entity”, in relation to an entity (“E”), means –
- (a) a member of the same group as E,
  - (b) an entity in which an entity which is a member of the same group as E has a major interest (within the meaning of Part 5 of CTA 2009: see section 473 of that Act), or
  - (c) a partnership the members of which include an entity –
    - (i) which is a member of the same group as E, and
    - (ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the chargeable period is at least a 40% share (see Part 17 of CTA 2009 for provisions about shares of partnership profits and losses).
- (3) In sub-paragraph (2) “group” means a group for the purposes of –
- (a) the provisions mentioned in paragraph 9(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 9(6)(a)(iii).

*“Capital resources condition”*

- 57 (1) “The capital resources condition” is that the entity has a capital resources requirement of at least £100,000,000.
- (2) But if the entity is a member of a group, “the capital resources condition” is that the entity and –
- (a) any other entities which –
    - (i) are members of the group,
    - (ii) meet either of the conditions in sub-paragraph (3),
    - (iii) are not excluded entities, and
    - (iv) are not members of any partnership within paragraph (b), and
  - (b) any partnership –
    - (i) the members of which are or include one or more entities which are members of the group and not excluded entities, and
    - (ii) which meets either of the conditions in sub-paragraph (3),
- have (in aggregate) capital resources requirements of at least £100,000,000.
- (3) The conditions referred to in sub-paragraph (2) are that the entity or partnership –
- (a) is both a BIPRU 730k firm and a full scope BIPRU investment firm, or
  - (b) is an entity or partnership which carries on in the United Kingdom activities including the relevant regulated activity described in the provision mentioned in paragraph 64(a).
- (4) In determining whether the entity is a UK resident bank or a relevant foreign bank by virtue of paragraph 63(2) or 65(2), the references in sub-paragraph (1) to the entity are to the partnership.
- (5) If any entity whose capital resources may be material for the purposes of sub-paragraph (1) or (2) prepares its accounts in a currency other than

sterling, the amount of its capital resources at the end of the chargeable period is to be translated into its sterling equivalent by reference to the spot rate of exchange on the last day of the chargeable period.

- (6) If any entity whose capital resources may be material for the purposes of sub-paragraph (1) or (2) carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom, its capital resources are to be determined as they would be for corporation tax purposes (see Chapter 4 of Part 2 of CTA 2009).
- (7) In sub-paragraph (2) “group” means a group for the purposes of –
- (a) the provisions mentioned in paragraph 9(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 9(6)(a)(iii).

“Excluded entity”

- 58 (1) “Excluded entity” means an entity which is –
- (a) an insurance company or an insurance special purpose vehicle,
  - (b) an entity which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or insurance special purpose vehicle which is a member of the group,
  - (c) an entity which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme,
  - (d) an investment trust (within the meaning given by section 1158 of CTA 2010),
  - (e) an entity which does not carry on any relevant regulated activities other than asset management activities,
  - (f) an exempt BIPRU commodities firm,
  - (g) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives,
  - (h) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences –
    - (i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or
    - (ii) with another person to enable the entity or other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients,
  - (i) a society incorporated under the Friendly Societies Act 1992,
  - (j) a society registered as a credit union under the Industrial and Provident Societies Act 1965 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (NI 12)), or
  - (k) a building society.
- (2) In sub-paragraph (1)(a) and (b) “insurance company” and “insurance special purpose vehicle” have the meaning given by section 431(2) of ICTA.
- (3) In sub-paragraph (1)(b) “group” means a group for the purposes of –
- (a) the provisions mentioned in paragraph 9(3), or
  - (b) the provisions of US GAAP mentioned in paragraph 9(6)(a)(iii).



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*“Long term” equity and liabilities*

- 59 All equity is “long term”.
- 60 (1) Liabilities are “long term” to the extent that –
- (a) as at the end of the chargeable period, the liabilities are not required, and cannot be required, to be repaid or otherwise met during the 12 month period starting with the last day of the chargeable period, and
  - (b) in the case of liabilities of one member of the relevant group to another member of the relevant group, an officer of Revenue and Customs is satisfied that the following condition is also met in relation to the liabilities.
- (2) The condition is that, as at the end of the chargeable period, the liabilities are funded by the relevant group through –
- (a) equity,
  - (b) excluded liabilities to persons who are not members of the relevant group, or
  - (c) liabilities to such persons which are not required, and cannot be required, to be repaid or otherwise met during the 12 month period starting with the last day of the chargeable period.
- 61 (1) Liabilities are also “long term” so far as they consist of non-protected deposits.
- (2) But sub-paragraph (1) does not apply to a deposit if the depositor is –
- (a) an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or
  - (b) an entity which would be an authorised person if it were a UK resident entity which carried on its activities in the United Kingdom.
- (3) A deposit is “non-protected” so far as it is not a protected deposit for the purposes of paragraph 34.
- (4) For the purposes of this paragraph –
- (a) “deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), and
  - (b) in relation to a deposit held in a territory outside the United Kingdom, the exclusions in articles 6 to 9AB of that Order apply with whatever modifications are appropriate to achieve the following purpose.
- (5) The purpose is that the exclusions are to cover, essentially, the same matters in relation to the territory concerned as they cover in relation to the United Kingdom.
- 62 Paragraphs 59 to 61 are subject to Step 6 in paragraph 29(1).

*“Relevant foreign bank”*

- 63 (1) “Relevant foreign bank” means an entity which –
- (a) is a non-UK resident entity,
  - (b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),

- (c) is an entity which carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom and –
    - (i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 64(a), or
    - (ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 64(b) to (f) and which meets the capital resources condition,
  - (d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of that trade, and
  - (e) is not an excluded entity.
- (2) “Relevant foreign bank” also includes an entity which –
- (a) meets the conditions in sub-paragraph (1)(a) and (e), and
  - (b) is a member of a partnership which meets the conditions in paragraph 65(1)(b) to (d).

*“Relevant regulated activity”*

- 64 “Relevant regulated activity” means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) –
- (a) article 5 (accepting deposits),
  - (b) article 14 (dealing in investments as principal),
  - (c) article 21 (dealing in investments as agent),
  - (d) article 25 (arranging deals in investments),
  - (e) article 40 (safeguarding and administering investments), and
  - (f) article 61 (entering into regulated mortgage contracts).

*“UK resident bank”*

- 65 (1) “UK resident bank” means an entity which –
- (a) is a UK resident entity,
  - (b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
  - (c) is an entity –
    - (i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 64(a), or
    - (ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 64(b) to (f) and which meets the capital resources condition,
  - (d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade, and
  - (e) is not an excluded entity.
- (2) “UK resident bank” also includes an entity which –
- (a) meets the conditions in sub-paragraph (1)(a) and (e), and

- (b) is a member of a partnership which meets the conditions in subparagraph (1)(b) to (d).