

Status: Point in time view as at 01/02/1991.

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SCHEDULES

SCHEDULE 1

INVESTMENTS AND INVESTMENT BUSINESS

Modifications etc. (not altering text)

- C1 Sch. 1 amended by S.I. 1988/496, art. 4
- C1 Sch. 1 amended by S.I. 1988/803, art. 5

PART I

INVESTMENTS

Shares etc.

- 1 Shares and stock in the share capital of a company.

Note. In this paragraph “company” includes any body corporate and also any unincorporated body constituted under the law of a country or territory outside the United Kingdom but does not include an open-ended investment company or any body incorporated under the law of, or of any part of, the United Kingdom relating to building societies, industrial and provident societies or credit unions.

Debentures

- 2 Debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness, not being instruments falling within paragraph 3 below.

Note. This paragraph shall not be construed as applying—

- (a) to any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
- (b) to a cheque or other bill of exchange, a banker’s draft or a letter of credit; or
- (c) to a banknote, a statement showing a balance in a current, deposit or savings account or (by reason of any financial obligation contained in it) to a lease or other disposition of property, a heritable security or an insurance policy.

Modifications etc. (not altering text)

- C1 Sch. 1 para. 2 applied (with modifications) (19.6.1995) by S.I. 1995/1537, reg. 3(1)(b)(2)(a)-(d)

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- C2** Sch. 1 para. 2 applied (6.4.1997) by 1995 c. 26, s. 40(2); S.I. 1997/664, art. 2(3), **Sch. Pt. II**
 Sch. 1 para. 2 modified (1.1.1996) by S.I. 1995/3271, **art. 4**

Government and public securities

- 3 Loan stock, bonds and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, local authority or public authority.

Notes

- (1) In this paragraph “government, local authority or public authority” means—
- (a) the government of the United Kingdom, of Northern Ireland, or of any country or territory outside the United Kingdom;
 - (b) a local authority in the United Kingdom or elsewhere;
 - (c) any international organisation the members of which include the United Kingdom or another member State.
- (2) The Note to paragraph 2 above shall, so far as applicable, apply also to this paragraph.
- [^{F1}(3) This paragraph does not apply to any instrument creating or acknowledging indebtedness in respect of money received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank or in respect of money raised under the National Loans Act 1968 under the auspices of the Director of Savings or in respect of money treated as having been so raised by virtue of section 11(3) of the National Debt Act 1972.]

Textual Amendments

- F1** Note added by S.I. 1990/349, **art. 2**

Instruments entitling to shares or securities

- 4 Warrants or other instruments entitling the holder to subscribe for investments falling within paragraph 1, 2 or 3 above.

Notes

- (1) It is immaterial whether the investments are for the time being in existence or identifiable.
- (2) An investment falling within this paragraph shall not be regarded as falling within paragraph 7, 8 or 9 below.

Modifications etc. (not altering text)

- C3** Sch. 1 para. 4 applied (with modifications) (19.6.1995) by S.I. 1995/1537, **reg. 3(1)(b)(2)(a)-(d)**
 Sch. 1 para. 4 applied (6.4.1997) by 1995 c. 26, s. 40(2); S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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Certificates representing securities

- 5 Certificates or other instruments which confer—
- (a) property rights in respect of any investment falling within paragraph 1, 2, 3 or 4 above;
 - (b) any right to acquire, dispose of, underwrite or convert an investment, being a right to which the holder would be entitled if he held any such investment to which the certificate or instrument relates; or
 - (c) a contractual right (other than an option) to acquire any such investment otherwise than by subscription.

Note. This paragraph does not apply to any instrument which confers rights in respect of two or more investments issued by different persons or in respect of two or more different investments falling within paragraph 3 above and issued by the same person.

Modifications etc. (not altering text)

- C4** Sch. 1 para. 5 applied (with modifications) (19.6.1995) by S.I. 1995/1537, reg. 3(1)(b)(2)(a)-(d)
Sch. 1 para. 5 applied (6.4.1997) by 1995 c. 26, s. 40(2); S.I. 1997/664, art. 2(3), Sch. Pt. II

Units in collective investment scheme

- 6 Units in a collective investment scheme, including shares in or securities of an open-ended investment company.

Options

- 7 Options to acquire or dispose of—
- (a) an investment falling within any other paragraph of this Part of this Schedule;
 - (b) currency of the United Kingdom or of any other country or territory;
 - (c) gold [^{F2}, palladium, platinum] or silver; or
 - (d) an option to acquire or dispose of an investment falling within this paragraph by virtue of (a), (b) or (c) above.

Textual Amendments

- F2** Words inserted by S.I. 1988/496, art. 2

Futures

- 8 Rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made.

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Notes

- (1) This paragraph does not apply if the contract is made for commercial and not investment purposes.
- (2) A contract shall be regarded as made for investment purposes if it is made or traded on a recognised investment exchange or made otherwise than on a recognised investment exchange but expressed to be as traded on such an exchange or on the same terms as those on which an equivalent contract would be made on such an exchange.
- (3) A contract not falling within Note (2) above shall be regarded as made for commercial purposes if under the terms of the contract delivery is to be made within seven days.
- (4) The following are indications that any other contract is made for a commercial purpose and the absence of any of them is an indication that it is made for investment purposes—
 - (a) either or each of the parties is a producer of the commodity or other property or uses it in his business;
 - (b) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it.
- (5) It is an indication that a contract is made for commercial purposes that the price, the lot, the delivery date or the other terms are determined by the parties for the purposes of the particular contract and not by reference to regularly published prices, to standard lots or delivery dates or to standard terms.
- (6) The following are also indications that a contract is made for investment purposes—
 - (a) it is expressed to be as traded on a market or on an exchange;
 - (b) performance of the contract is ensured by an investment exchange or a clearing house;
 - (c) there are arrangements for the payment or provision of margin.
- (7) A price shall be taken to have been agreed upon when a contract is made—
 - (a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract; or
 - (b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

Contracts for differences etc.

- 9 Rights under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for that purpose in the contract.

[^{F3}Notes] .

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[^{F4}(1)] This paragraph does not apply where the parties intend that the profit is to be obtained or the loss avoided by taking delivery of any property to which the contract relates.

[^{F5}(2)] This paragraph does not apply to rights under any contract under which money is received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank or raised under the National Loans Act 1968 under the auspices of the Director of Savings or under which money raised is treated as having been so raised by virtue of section 11(3) of the National Debt Act 1972.]

Textual Amendments

- F3** Word substituted by S.I. 1990/349, art. 2(2)
F4 Note numbered (1) by S.I. 1990/349, art. 2(2)
F5 Note added by S.I. 1990/349, art. 2(2)

Long term insurance contracts

10 Rights under a contract the effecting and carrying out of which constitutes long term business within the meaning of the ^{M1}Insurance Companies Act 1982.

Notes

- (1) This paragraph does not apply to rights under a contract of insurance if—
- the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or infirmity;
 - no benefits are payable under the contract on a death (other than a death due to accident) unless it occurs within ten years of the date on which the life of the person in question was first insured under the contract or before that person attains a specified age not exceeding seventy years;
 - the contract has no surrender value or the consideration consists of a single premium and the surrender value does not exceed that premium; and
 - the contract does not make provision for its conversion or extension in a manner that would result in its ceasing to comply with paragraphs (a), (b) and (c) above.
- (2) Where the provisions of a contract of insurance are such that the effecting and carrying out of the contract—
- constitutes both long term business within the meaning of the ^{M2}Insurance Companies Act 1982 and general business within the meaning of that Act; or
 - by virtue of section 1(3) of that Act constitutes long term business notwithstanding the inclusion of subsidiary general business provisions,
- references in this paragraph to rights and benefits under the contract are references only to such rights and benefits as are attributable to the provisions of the contract relating to long term business.
- (3) This paragraph does not apply to rights under a reinsurance contract.
- (4) Rights falling within this paragraph shall not be regarded as falling within paragraph 9 above.

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Marginal Citations

M1 1982 c. 50.

M2 1982 c. 50.

Rights and interests in investments

- 11 Rights to and interests in anything which is an investment falling within any other paragraph of this Part of this Schedule.

Notes

- (1) This paragraph does not apply to interests under the trusts of an occupational pension scheme.
- (2) This paragraph does not apply to rights or interests which are investments by virtue of any other paragraph of this Part of this Schedule.

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