



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 7

#### COMMUNITY INVESTMENT TAX RELIEF

### CHAPTER 1

#### INTRODUCTION

#### *CITR*

#### **218 Meaning of “CITR”**

This Part provides for community investment tax relief (“CITR”), that is, entitlement to tax reductions in respect of amounts invested by companies in community development finance institutions.

#### **219 Eligibility for CITR**

- (1) A company (“the investor”) which makes an investment (“the investment”) in a body is eligible for CITR in respect of the investment if—
  - (a) at the time the investment is made the body is accredited as a community development finance institution under Chapter 2 of Part 7 of ITA 2007,
  - (b) the investment is a qualifying investment (see Chapter 2 of this Part), and
  - (c) the general conditions of Chapter 3 of this Part are met.
- (2) In this Part references to “the CDFI” are to the body in which the investment is made.

## **220 Form and amount of CITR**

- (1) If the investor is eligible for CITR in respect of the investment, the investor may make a claim in respect of the investment for any one or more of the relevant accounting periods.
- (2) If the investor makes a claim for a relevant accounting period, the investor is entitled to a reduction in the amount of its liability for corporation tax for that period.
- (3) The amount of that reduction for the relevant accounting period is the smaller of the following amounts—
  - (a) 5% of the invested amount in respect of the investment for the period, and
  - (b) the amount which reduces the investor’s liability for corporation tax for the period to nil.
- (4) For this purpose the “relevant” accounting periods are—
  - (a) the accounting period in which the investment date falls, and
  - (b) each of the accounting periods in which the subsequent 4 anniversaries of that date fall.
- (5) The investor is entitled to make a claim for CITR for a relevant accounting period if—
  - (a) the investor considers that the conditions for the CITR are for the time being met, and
  - (b) the investor has received a tax relief certificate (see section 229) relating to the investment from the CDFI,but a claim may not be made before the end of the accounting period to which the claim relates.
- (6) Subsection (5) is subject to the following provisions—
  - (a) section 236 (loans: no claim after disposal or excessive repayments or receipts of value),
  - (b) section 237 (securities or shares: no claim after disposal or excessive receipts of value),
  - (c) section 238 (no claim after loss of accreditation by the CDFI), and
  - (d) section 239 (accreditation of investor).

### *Miscellaneous*

## **221 Meaning of “making an investment”**

- (1) For the purposes of this Part, a company makes an investment in a body at any time when—
  - (a) the company makes a loan (whether secured or unsecured) to the body, or
  - (b) an issue of securities of or shares in the body, for which the company has subscribed, is made to the company.
- (2) The following provisions of this section apply for the purposes of subsection (1)(a).
- (3) A company does not make a loan to a body if—
  - (a) the body uses overdraft facilities provided by the company, or
  - (b) the company subscribes for or otherwise acquires securities of the body.

- (4) If the loan agreement authorises the body to draw down amounts of the loan over a period of time, the loan is treated as made at the time when the first amount is drawn down.

## **222 Determination of “the invested amount”**

- (1) This section applies for the purpose of determining “the invested amount” in respect of any loan, securities or shares included in the investment.

This is subject to sections 246(2) and 252 (which adjust “the invested amount” in certain cases where value is received).

- (2) In the case of a loan, the invested amount is—
- (a) for the accounting period in which the investment date falls, the average capital balance for the first year of the 5 year period,
  - (b) for the accounting period in which the first anniversary of the investment date falls, the average capital balance for the second year of the 5 year period, and
  - (c) for any subsequent accounting period—
    - (i) the average capital balance for the period of 12 months beginning with the anniversary of the investment date falling in the accounting period concerned, or
    - (ii) if less, the average capital balance for the period of 6 months beginning 18 months after the investment date.
- (3) In the case of securities or shares, the invested amount for an accounting period is the amount subscribed by the investor for the securities or shares.
- (4) For the purposes of this section, the average capital balance of the loan for a period is the mean of the daily balances of capital outstanding during the period.

## **223 Meaning of “the 5 year period” and “the investment date”**

In this Part—

“the 5 year period” means the period of 5 years beginning with the investment date, and

“the investment date” means the day the investment is made.

## **224 Overview of other Chapters of Part**

In this Part—

- (a) Chapter 4 provides for limitations on claims and the attribution of CITR to investments,
- (b) Chapter 5 provides for CITR to be withdrawn or reduced in the circumstances mentioned in that Chapter, and
- (c) Chapter 6 contains supplementary and general provision.

## CHAPTER 2

### QUALIFYING INVESTMENTS

#### 225 Qualifying investments: introduction

For the purposes of this Part the investment is a “qualifying investment” in the CDFI if—

- (a) the investment consists of—
  - (i) a loan in relation to which the conditions of section 226 are met,
  - (ii) securities in relation to which the conditions of section 227 are met, or
  - (iii) shares in relation to which the conditions of section 228 are met,
- (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see section 229), and
- (c) the requirements of section 230 (no pre-arranged protection against risks) are met.

#### 226 Conditions to be met in relation to loans

- (1) Condition A of this section is that either—
  - (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
  - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.
- (2) Condition B is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within the 5 year period.
- (3) Condition C is that the loan must not have been made on terms that allow any person to require—
  - (a) the repayment during the first two years of the 5 year period of any of the loan capital advanced in those two years,
  - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,
  - (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or
  - (d) the repayment before the end of that period of more than 75% of that loan capital.
- (4) Subsection (3) does not apply if the CDFI is required to make the repayment as a result of its failure to meet any obligation of the loan agreement which—
  - (a) is imposed merely because of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Part.
- (5) The Treasury may by order substitute any other percentage for any percentage for the time being specified in subsection (3).

- (6) Any such substitution is to have effect in relation to loans made by a company on or after the date specified in the order.

## **227 Conditions to be met in relation to securities**

- (1) Condition A of this section is that the securities must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) Condition B is that the securities must not carry—
- (a) any present or future right to be redeemed within the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) For the purposes of subsection (1)(b), securities are not fully paid for if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the securities.

## **228 Conditions to be met in relation to shares**

- (1) Condition A of this section is that the shares must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.
- (2) Condition B is that the shares must not carry—
- (a) any present or future right to be redeemed during the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) For the purposes of subsection (1)(b) shares are not fully paid up if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.

## **229 Tax relief certificates**

- (1) A “tax relief certificate” means a certificate issued by the CDFI in respect of the investment which is in the form specified by the Commissioners for Her Majesty’s Revenue and Customs.
- (2) The CDFI must not issue tax relief certificates under this section in respect of investments made in the CDFI in an accreditation period if the total value of—
- (a) those investments, and
  - (b) any investments to which subsection (3) applies,
- will exceed the limit for that period.
- (3) This subsection applies to investments—
- (a) which have been made in the CDFI in the accreditation period, and

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- (b) in respect of which the CDFI has issued tax relief certificates under section 348 of ITA 2007 (which makes in relation to income tax provision corresponding to that made by this section).
- (4) The limit for an accreditation period is—
  - (a) £10 million if the CDFI is accredited for the period as a retail community development finance institution (see section 340(8) of ITA 2007), and
  - (b) £20 million in any other case.
- (5) For the purposes of subsection (2) the value of an investment made in the CDFI is—
  - (a) if the investment consists of a loan—
    - (i) the amount of the loan, or
    - (ii) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement, and
  - (b) if the investment consists of securities or shares, the amount subscribed for them.
- (6) The Treasury may by order substitute any other amount for any amount for the time being specified in subsection (4).
- (7) Any such substitution is to have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases an amount for the time being specified in subsection (4), include periods beginning before the order comes into force.
- (8) Any tax relief certificate issued in contravention of subsection (2) is invalid.
- (9) A body is liable to a penalty of not more than £3,000 if it issues a tax relief certificate which is made fraudulently or negligently.
- (10) An accreditation period is a period for which accreditation of the CDFI has effect under Chapter 2 of Part 7 of ITA 2007.

### **230 No pre-arranged protection against risks**

- (1) Any arrangements—
  - (a) under which the investment is made, or
  - (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
 must not include excluded arrangements.
- (2) For the purposes of subsection (1) “excluded arrangements”—
  - (a) means arrangements the main purpose or one of the main purposes of which is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment, but
  - (b) does not include any arrangements which are confined to the provision for the investor of any protection against those risks which might reasonably be expected to be provided for commercial reasons if the investment were made in the course of a business of banking.
- (3) For the purposes of this section “arrangements” includes any scheme, agreement or understanding (whether or not legally enforceable).

## CHAPTER 3

### GENERAL CONDITIONS

#### **231 No control of CDFI by investor**

- (1) The investor must not control the CDFI at any time during the 5 year period.
- (2) In this section references to the investor include any person connected with the investor.
- (3) If the CDFI is a body corporate, the question whether the investor controls the CDFI is, for the purposes of this section, determined in accordance with section 1124.

This is subject to subsection (6).

- (4) In any other case the investor is treated, for those purposes, as having control of the CDFI if the investor has power to secure, as a result of—
  - (a) the possession of voting power in the CDFI, or
  - (b) any powers conferred by the constitution of, or any other document regulating, the CDFI,

that the affairs of the body are conducted in accordance with the investor's wishes.

This is subject to subsections (5) and (6).

- (5) If—
  - (a) the CDFI is a partnership, and
  - (b) the investor is a member of that partnership,for the purposes of determining in accordance with this section whether the investor controls the CDFI, the other members of that partnership are not, as a result of their membership of the CDFI, treated as partners of the investor.
- (6) In determining whether the investor controls the CDFI there are attributed to the investor (so far as it would not otherwise be the case)—
  - (a) any rights or powers that the investor is entitled to acquire at a future date or will, at a future date, become entitled to acquire, and
  - (b) any rights or powers which another person holds on behalf of the investor or may be required to exercise, by direction, on the investor's behalf.

#### **232 Investor must have beneficial ownership**

- (1) The investor must be the sole beneficial owner of the investment when it is made.
- (2) If the investment consists of a loan, the person beneficially entitled to repayment of the loan is treated as the beneficial owner of the loan for the purposes of this Part.

#### **233 Investor must not be accredited**

The investor must not be accredited as a community development finance institution under Chapter 2 of Part 7 of ITA 2007 on the investment date.

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**234 No acquisition of share in partnership**

- (1) If the CDFI is a partnership, the investment must not consist of or include any amount of capital contributed by the investor on becoming a member of the partnership.
- (2) For this purpose the amount of capital contributed by the investor on becoming a member of the partnership includes any amount which—
  - (a) purports to be provided by the investor by way of loan capital, and
  - (b) is accounted for as partners' capital in the accounts of the partnership.

**235 No tax avoidance purpose**

The investment must not be made as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

## CHAPTER 4

### LIMITATIONS ON CLAIMS AND ATTRIBUTION

#### *Limitations on claims*

**236 Loans: no claim after disposal or excessive repayments or receipts of value**

- (1) If the investment consists of a loan, no claim may be made for an accounting period if—
  - (a) the investor disposes of the whole or any part of the loan before the qualifying date relating to that period,
  - (b) at any time after the investment is made but before that qualifying date, the amount of the capital outstanding on the loan is reduced to nil, or
  - (c) before that qualifying date, paragraphs (a) and (b) of section 245(1) (repayments of loan in 5 year period exceeding permitted limits) apply in relation to the investment (whether by virtue of section 246 (receipts of value treated as repayments) or otherwise).
- (2) For the purposes of subsection (1)(a) any repayment of the loan is to be ignored.
- (3) For the purposes of this section the qualifying date relating to an accounting period is the next anniversary of the investment date to occur after the end of that period.

**237 Securities or shares: no claim after disposal or excessive receipts of value**

- (1) If the investment consists of securities or shares, a claim made for an accounting period must relate only to those securities or shares held by the investor, as sole beneficial owner, continuously throughout the period—
  - (a) beginning when the investment is made, and
  - (b) ending immediately before the qualifying date relating to the accounting period.
- (2) No claim may be made for an accounting period if before the qualifying date relating to that period paragraphs (a) to (d) of section 247(1) (receipts of value in the 6 year period exceeding permitted limits) apply in relation to the investment or any part of it.



- (3) For the purposes of this section the qualifying date relating to an accounting period is the next anniversary of the investment date to occur after the end of that period.

### **238 No claim after loss of accreditation by the CDFI**

- (1) If the CDFI ceases to be accredited under Chapter 2 of Part 7 of ITA 2007 with effect from a time within the 5 year period, no claim in respect of the investment may be made—
- (a) for the relevant accounting period, or
  - (b) for any later accounting period.
- (2) To find the relevant accounting period proceed under the rest of this section, in which references to the time of accreditation ceasing are to the time with effect from which the CDFI ceases to be accredited.
- (3) If the time of accreditation ceasing falls within the first year of the 5 year period, the relevant accounting period is the accounting period in which the investment date fell.
- (4) In any other case the relevant accounting period is—
- (a) the accounting period in which the last anniversary of the investment date before the time of accreditation ceasing fell, or
  - (b) if the time of accreditation ceasing itself falls on an anniversary of the investment date, the accounting period in which that anniversary falls.

### **239 Accreditation of investor**

- (1) This section applies where the investor becomes accredited under Chapter 2 of Part 7 of ITA 2007 with effect from a time within the 5 year period.
- (2) No claim in respect of the investment may be made—
- (a) for the relevant accounting period, or
  - (b) for any later accounting period.
- (3) To find the relevant accounting period proceed under the rest of this section, in which references to the time of accreditation are to the time with effect from which the investor becomes accredited.
- (4) If the time of accreditation falls within the first year of the 5 year period, the relevant accounting period is the accounting period in which the investment date fell.
- (5) In any other case the relevant accounting period is—
- (a) the accounting period in which the last anniversary of the investment date before the time of accreditation fell, or
  - (b) if the time of accreditation itself falls on an anniversary of the investment date, the accounting period in which that anniversary falls.

### *Attribution*

### **240 Attribution: general**

- (1) In this Part references to the CITR attributable to any loan, securities or shares in respect of an accounting period are read as references to the reduction which—

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- (a) is made in the investor's liability to corporation tax for that period, and
- (b) is attributed to that loan, or those securities or shares, in accordance with this section and section 241.

This is subject to the provisions of Chapter 5 for the withdrawal or reduction of CITR.

- (2) Subsections (3) and (4) apply if the investor's liability to corporation tax is reduced for an accounting period under this Part.
- (3) If the reduction is obtained because of one loan, or securities or shares included in one issue, the amount of the tax reduction is attributed to that loan or those securities or shares.
- (4) If the reduction is obtained because of a loan or loans, securities or shares included in two or more investments, the reduction—
  - (a) is apportioned between the loan or loans, securities or shares in each of those investments in the same proportions as the invested amounts in respect of the loan or loans, securities or shares for the period, and
  - (b) is attributed to that loan or those loans, securities or shares accordingly.
- (5) If under this section an amount of any reduction of corporation tax is attributed to any securities in the same issue, a proportionate part of that amount is attributed to each security.
- (6) If under this section an amount of any reduction of corporation tax is attributed to any shares in the same issue, a proportionate part of that amount is attributed to each of those shares.
- (7) If CITR attributable to a loan or any securities or shares falls to be withdrawn under Chapter 5, the CITR attributable to that loan or each of those securities or shares is reduced to nil.
- (8) If CITR attributable to any securities or shares falls to be reduced under that Chapter by any amount, the CITR attributable to each of those securities or shares is reduced by a proportionate part of that amount.

#### **241 Attribution: bonus shares**

- (1) This section applies if—
  - (a) corresponding bonus shares are issued to the investor in respect of any shares ("the original shares") included in the investment, and
  - (b) the original shares have been continuously held by the investor, as sole beneficial owner, from the time they were issued until the issue of the bonus shares.
- (2) A proportionate part of any amount attributed to the original shares, in respect of an accounting period, immediately before the bonus shares are issued is attributed to each of the shares in the holding consisting of the original shares and the bonus shares, in respect of that period.
- (3) After the issue of the bonus shares this Part applies as if—
  - (a) the original issue had included the bonus shares, and
  - (b) the bonus shares had been held by the investor, as sole beneficial owner, continuously from the time the original shares were issued until the bonus shares were issued.

(4) In this section—

“corresponding bonus shares” means bonus shares that are in the same company, are of the same class, and carry the same rights as the original shares,  
“original issue” means the issue of shares forming the investment.

## CHAPTER 5

### WITHDRAWAL OR REDUCTION OF CITR

#### *Introduction*

#### **242 Introduction to Chapter**

- (1) This Chapter provides for CITR to be withdrawn or reduced under—
  - (a) section 243 (disposal of loan during 5 year period),
  - (b) section 244 (disposal of securities or shares during 5 year period),
  - (c) section 245 (repayment of loan capital during 5 year period),
  - (d) section 246 (value received by investor during 6 year period: loans),
  - (e) section 247 (value received by investor during 6 year period: securities or shares),
  - (f) section 254 (CITR subsequently found not to have been due).
- (2) This Chapter also provides for the manner in which CITR is to be withdrawn or reduced (see section 255).
- (3) In this Chapter “the 6 year period” in relation to the investment is the period of 6 years beginning 12 months before the investment date.

#### *Disposals*

#### **243 Disposal of loan during 5 year period**

- (1) If the investment consists of a loan and within the 5 year period—
  - (a) the investor disposes of the whole of the investment, otherwise than by way of a permitted disposal, or
  - (b) the investor disposes of a part of the investment,any CITR attributable to the investment in respect of any accounting period must be withdrawn.
- (2) For the purposes of this section—
  - (a) a disposal is “permitted” if—
    - (i) it is by way of a distribution in the course of dissolving or winding up the CDFI,
    - (ii) it is a disposal within section 24(1) of TCGA 1992 (entire loss, destruction, dissipation or extinction of asset),
    - (iii) it is a deemed disposal under section 24(2) of that Act (claim that value of asset has become negligible), or

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- (iv) it is made after the CDFI has ceased to be accredited under Chapter 2 of Part 7 of ITA 2007, and
- (b) a full or partial repayment of the loan is not treated as giving rise to a disposal.

#### **244 Disposal of securities or shares during 5 year period**

- (1) This section applies if the investment consists of securities or shares and—
  - (a) the investor disposes of the whole or any part of the investment (“the former investment”) within the 5 year period,
  - (b) the CDFI has not ceased to be accredited under Chapter 2 of Part 7 of ITA 2007 before the disposal, and
  - (c) the disposal does not arise as a result of an event within section 249(1)(a) (repayment, redemption or repurchase of securities or shares included in the investment).
- (2) If the disposal is not a qualifying disposal, any CITR attributable to the former investment in respect of any accounting period must be withdrawn.
- (3) If the disposal is a qualifying disposal, any CITR attributable to the former investment in respect of an accounting period must—
  - (a) if it is greater than A, be reduced by A, and
  - (b) in any other case, be withdrawn.

For this purpose “A” is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.

- (4) For the purposes of this section “qualifying disposal” means a disposal that is—
  - (a) by way of a bargain made at arm’s length, or
  - (b) a permitted disposal (within the meaning of section 243).
- (5) If in respect of any accounting period—
  - (a) the amount of CITR attributable to the former investment (“B”) is less than
  - (b) the amount (“C”) which is equal to 5% of the invested amount in respect of the former investment for that period,
 subsection (3)(a) has effect in relation to that period as if the amount or value referred to in subsection (3) were reduced by multiplying it by the fraction—

$$\frac{B}{C}$$

- (6) If the amount of CITR attributable to the former investment in respect of an accounting period has been reduced before the CITR is obtained, the amount referred to in subsection (5) as B is to be treated for the purposes of that subsection as the amount it would have been without that reduction.
- (7) Subsection (6) does not apply to a reduction by virtue of section 241 (attribution: bonus shares).

#### *Repayment of loans*

#### **245 Repayment of loan capital during 5 year period**

- (1) If the investment consists of a loan and—

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- (a) the average capital balance of the loan for the third, fourth or final year of the 5 year period is less than the permitted balance for the year in question, and
  - (b) the difference between those balances is not an amount of insignificant value,
- any CITR attributable to the investment in respect of any accounting period must be withdrawn.
- (2) For the purposes of this section—
- “the average capital balance” of the loan for a period is the mean of the daily balances of capital outstanding during that period, ignoring any non-standard repayments of the loan made in that period or at any earlier time, and
  - “the permitted balance” of the loan is—
    - (a) for the third year of the 5 year period, 75% of the average capital balance for the period of 6 months beginning 18 months after the investment date,
    - (b) for the fourth year of that period, 50% of that balance, and
    - (c) for the final year of that period, 25% of that balance.
- (3) For the purposes of subsection (2) a repayment of the loan is a non-standard repayment if subsection (4) or (5) applies.
- (4) This subsection applies if the repayment is made at the choice or discretion of the CDFI, and not as a direct or indirect consequence of any obligation provided for under the terms of the loan agreement.
- (5) This subsection applies if the repayment is made as a result of the failure of the CDFI to meet any obligation of the loan agreement which—
  - (a) is imposed merely because of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Part.
- (6) For the purposes of this section “an amount of insignificant value” means an amount which—
  - (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the average capital balance of the loan for the year of the 5 year period in question.

### *Receipts of value*

#### **246 Value received by investor during 6 year period: loans**

- (1) This section applies if the investment consists of a loan and the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period (see section 249 for provision about when value is received).
- (2) The investor is treated for the purposes of—
  - (a) section 222 (determination of “invested amount”), and
  - (b) section 245 (repayments of loan capital),as having received a repayment of the loan of an amount equal to the amount of the value received.
- (3) For those purposes the repayment is treated as made—

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- (a) if the value is received in the first or second year of the 6 year period, at the beginning of that second year, and
  - (b) if the value is received in a later year of that period, at the beginning of the year in question.
- (4) For the purposes of section 245 the repayment is treated as a repayment other than a non-standard repayment (within the meaning of that section).
- (5) For the purposes of this section “an amount of insignificant value” means an amount of value which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the average capital balance of the loan for the year of the 6 year period in which the value is received.
- (6) For the purposes of subsection (5)(b)—
- (a) “the average capital balance” of the loan for a year is the mean of the daily balances of capital outstanding during the year (ignoring the receipt of value in question), and
  - (b) any value received in the first year of the 6 year period is treated as received at the beginning of the second year of that period.
- (7) This section is subject to section 251 (value received if there is more than one investment).
- (8) Value received is ignored, for the purposes of this section, so far as the CITR attributable to any loan, securities or shares in respect of any one or more accounting periods has already been reduced or withdrawn on its account.

#### **247 Value received by investor during 6 year period: securities or shares**

- (1) This section applies if the investment consists of securities or shares and—
- (a) the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period (see section 249 for provision about when value is received),
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by the investor, as sole beneficial owner, continuously since the investment was made (“the continuing investment”),
  - (c) the receipt is wholly or partly in excess of the permitted level of receipts in respect of the continuing investment, and
  - (d) the amount of that excess is not an amount of insignificant value.
- (2) Any CITR attributable to the continuing investment in respect of any accounting period must be withdrawn.
- (3) For the purposes of subsection (1) the permitted level of receipts is exceeded if—
- (a) any amount of value is received by the investor (ignoring any amounts of insignificant value) in the first 3 years of the 6 year period, or
  - (b) the total amount of value received by the investor (ignoring any amounts of insignificant value)—
    - (i) before the beginning of the fifth year of that period, exceeds 25% of the invested capital,

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- (ii) before the beginning of the final year of that period, exceeds 50% of the invested capital, or
  - (iii) before the end of that period, exceeds 75% of the invested capital.
- (4) In this section—
  - “the invested capital”, in relation to the continuing investment, means the amount subscribed for the securities or shares concerned, and
  - “an amount of insignificant value” means an amount of value which—
    - (a) is not more than £1,000, or
    - (b) if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the securities or shares included in the continuing investment.
- (5) This section is subject to section 251 (value received if there is more than one investment).
- (6) Value received is ignored, for the purposes of this section, so far as CITR attributable to any loan, securities or shares in respect of any one or more accounting periods has already been reduced or withdrawn on its account.

## **248 Receipts of insignificant value to be added together**

- (1) This section applies if—
  - (a) value is received (“the relevant receipt”) by the investor from the CDFI at any time during the 6 year period relating to the investment (see section 249 for provision about when value is received),
  - (b) the investor has received from the CDFI one or more receipts of insignificant value at a time or times—
    - (i) during that period, but
    - (ii) not later than the time of the relevant receipt, and
  - (c) the total amount of the value of the receipts within paragraphs (a) and (b) is not an amount of insignificant value.
- (2) The investor is treated for the purposes of this Part as if the relevant receipt had been a receipt of an amount of value equal to that total amount.
- (3) A receipt does not fall within subsection (1)(b) if the whole or any part of it has previously formed part of a total amount falling within subsection (1)(c).
- (4) For the purposes of this section “an amount of insignificant value” means an amount of value which—
  - (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the relevant amount.
- (5) If the investment consists of a loan, the relevant amount for the purposes of subsection (4) is—
  - (a) if the relevant receipt is received in the first or second year of the 6 year period, the average capital balance of the loan for the second year of that period, and
  - (b) if the relevant receipt is received in a later year, the average capital balance of the loan for the year in question.
- (6) For the purposes of subsection (5)—

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- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the relevant receipt and any receipts within subsection (1)(b) are ignored when calculating the average capital balance for the year in question.
- (7) If the investment consists of securities or shares, the relevant amount for the purposes of subsection (4) is—
- (a) if the relevant receipt is received in the first year of the 6 year period, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the relevant receipt is received, and
    - (ii) have been held by the investor, as sole beneficial owner, continuously since the investment was made.
- (8) This section is subject to section 251 (value received if there is more than one investment).

#### **249 When value is received**

- (1) For the purposes of this Chapter the investor receives value from the CDFI at any time when the CDFI—
- (a) repays, redeems or repurchases any securities or shares included in the investment,
  - (b) releases or waives any liability of the investor to the CDFI or discharges, or undertakes to discharge, any liability of the investor to a third person,
  - (c) makes a loan or advance to the investor which has not been repaid in full before the investment is made,
  - (d) provides a benefit or facility for—
    - (i) the investor or any associate of the investor, or
    - (ii) a director or employee of the investor or any associate of a director or employee of the investor,
  - (e) disposes of an asset to the investor for no consideration or for a consideration of an amount or value which is less than the market value of the asset,
  - (f) acquires an asset from the investor for a consideration of an amount or value which is more than the market value of the asset, or
  - (g) makes a payment to the investor other than a qualifying payment.
- (2) But if the investor is a bank, the investor does not receive value from the CDFI when the CDFI makes a deposit with the investor in the course of the CDFI's ordinary banking arrangements with the investor.
- (3) For the purposes of subsection (1)(b) the CDFI is treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (4) For the purposes of subsection (1)(c) the following are treated as loans made by the CDFI to the investor—
- (a) the amount of any debt due from the investor to the CDFI (other than an ordinary trade debt), and



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- (b) the amount of any debt due from the investor to a third person which has been assigned to the CDFI.
- (5) For the purposes of this section—
- (a) references to a debt or liability do not, in relation to a person, include references to any debt or liability which would be discharged by the making by that person of a qualifying payment,
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would have been a qualifying payment, and
  - (c) any reference to a payment or disposal to a person includes a reference to a payment or disposal made to that person indirectly or to that person's order or for that person's benefit.
- (6) In subsection (5) references to “a person” include references to any other person who, at any time in the 6 year period, is connected with that person, whether or not the other person is so connected at the material time.
- (7) In this section—
- “bank” has the meaning given by section 1120,
  - “qualifying payment” means—
    - (a) any payment by any person for any goods, services or facilities provided by the investor (in the course of the investor's trade or otherwise) which is reasonable in relation to the market value of those goods, services or facilities,
    - (b) the payment by any person of any interest which represents no more than a reasonable commercial return on money lent to that person,
    - (c) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or securities of that company,
    - (d) any payment for the acquisition of an asset which does not exceed its market value,
    - (e) the payment by any person, as rent for any property occupied by the person, of an amount which is not more than a reasonable and commercial rent for the property, and
    - (f) a payment in discharge of an ordinary trade debt, and
  - “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business if any credit given—
    - (a) is for not more than 6 months, and
    - (b) is not longer than that normally given to customers of the person carrying on the trade or business.

## **250 The amount of value received**

- (1) In a case falling within a provision listed in column 1 of the following table, the amount of value received for the purposes of this Chapter is given by the corresponding entry in column 2 of the table.

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<i>Provision</i>	<i>The amount of value received</i>
Section 249(1)(a)	The amount received by the investor
Section 249(1)(b)	The amount of the liability
Section 249(1)(c)	The amount of the loan or advance, less the amount of any repayment made before the investment is made
Section 249(1)(d)(i)	The cost to the CDFI of providing the benefit or facility, less any consideration given for it by the investor or any associate of the investor
Section 249(1)(d)(ii)	The cost to the CDFI of providing the benefit or facility, less any consideration given for it by the investor or any associate of the investor or by a person within subsection (2)
Section 249(1)(e) or (f)	The difference between the market value of the asset and the consideration (if any) received for it
Section 249(1)(g)	The amount of the payment

- (2) The persons within this subsection are—
- (a) in a case where the benefit or facility was provided to a director or employee, the director or employee or any associate of the director or employee, and
  - (b) in a case where the benefit or facility was provided to an associate of a director or employee, the associate or the director or employee.

## **251 Value received if there is more than one investment**

- (1) This section applies if—
- (a) the investor makes two or more investments in the CDFI,
  - (b) the investor is eligible for and claims CITR in respect of those investments, and
  - (c) the investor receives value (other than value within section 249(1)(a)) which is received within the 6 year periods relating to two or more of those investments.
- (2) Sections 246, 247, 248 and 252 have effect in relation to each investment referred to in subsection (1)(c) as if the amount of the value received were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the appropriate amount in respect of the investment in question, and  
 B is the sum of that amount and the appropriate amount or amounts in respect of the other investment or investments.

- (3) If the investment consists of a loan, the appropriate amount for the purposes of subsection (2) is—
- (a) if the value is received in the first or second year of the 6 year period, the average capital balance of the loan for the second year of that period, and

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- (b) if the value is received in a later year, the average capital balance of the loan for the year in question.
- (4) For the purposes of subsection (3)—
- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the receipt of value is ignored when calculating the average capital balance for the year in question.
- (5) If the investment consists of securities or shares, the appropriate amount for the purposes of subsection (2) is—
- (a) if the value is received in the first year of the 6 year period, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the value is received, and
    - (ii) have been held by the investor, as sole beneficial owner, continuously since the investment was made.

## **252 Effect of receipt of value on future claims**

- (1) This section applies if the investment consists of securities or shares and—
- (a) the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period, and
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by the investor, as sole beneficial owner, continuously since the investment was made (“the continuing investment”), but no CITR attributable to the continuing investment is withdrawn under section 247 as a result of the receipt.
- (2) For the purposes of calculating any CITR in respect of any securities or shares included in the continuing investment for any relevant accounting period, the amount subscribed for the securities or shares included in the continuing investment is treated as reduced by the amount of the value received.
- (3) For this purpose the “relevant” accounting periods are—
- (a) any accounting period ending on or after the anniversary of the investment date immediately before the receipt of value, or
  - (b) if the value was received on an anniversary of the investment date, any accounting period ending on or after that anniversary.
- (4) For the purposes of this section “an amount of insignificant value” means an amount of value which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the securities or shares included in the continuing investment.
- (5) This section is subject to section 251 (value received if there is more than one investment).

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### **253 Receipts of value by or from connected persons**

In sections 246 to 252, if the context permits, references to the investor or the CDFI include references to any person who at any time in the 6 year period relating to the investment is connected with the investor or, as the case may be, the CDFI, whether or not the person is connected at the material time.

*CITR not due*

### **254 CITR subsequently found not to have been due**

If any CITR has been obtained which is subsequently found not to have been due, the CITR must be withdrawn.

*Manner of withdrawal or reduction*

### **255 Manner of withdrawal or reduction of CITR**

- (1) This section applies if any CITR has been obtained which falls to be withdrawn or reduced under this Chapter.
- (2) The CITR must be withdrawn or reduced by making an assessment to corporation tax for the accounting period for which the CITR was obtained.
- (3) An assessment under subsection (2) may be made at any time not more than 6 years after the end of the accounting period for which the CITR was obtained.
- (4) Subsection (3) is not to be taken to limit the application of paragraph 46(2A) of Schedule 18 to the Finance Act 1998 (loss of tax brought about deliberately).

## **CHAPTER 6**

### SUPPLEMENTARY AND GENERAL

*Alternative finance arrangements*

### **256 Meaning of “loan” and “interest”**

- (1) In this Part—
  - (a) references to a “loan” include references to alternative finance arrangements, and
  - (b) references to “interest” include references to alternative finance return.
- (2) In subsection (1)—
 

“alternative finance arrangements” means arrangements to which any of the following applies—

  - (a) section 503 of CTA 2009 (purchase and resale arrangements),
  - (b) section 505 of that Act (deposit arrangements),
  - (c) section 506 of that Act (profit share agency arrangements), and

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“alternative finance return” has the meaning given by section 511 and 513(1) and (2) of that Act.

- (3) Subsection (1) needs to be read with—
- (a) section 257, in the case of arrangements to which section 503 of CTA 2009 applies,
  - (b) section 258, in the case of arrangements to which section 505 of that Act applies, and
  - (c) section 259, in the case of arrangements to which section 506 of that Act applies.

## **257 Purchase and resale arrangements**

- (1) This section applies if, under arrangements to which section 503 of CTA 2009 applies, a person (“the first purchaser”) purchases an asset that is sold to another person (“the second purchaser”).
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The first purchaser is treated as making a loan to the second purchaser.
- (4) The amount of the loan is treated as being equal to the first purchase price.
- (5) If the arrangements provide that the first purchaser will transfer ownership of the asset to the second purchaser in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the asset being transferred to the second purchaser in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to the second purchaser, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date.
- (6) In calculating the amount of capital outstanding on the loan, each payment of the second purchase price (or part of the second purchase price), as reduced by any amount of alternative finance return (within the meaning of Chapter 6 of Part 6 of CTA 2009) included within each payment, is treated as repayment of the loan capital.
- (7) References to the beneficial owner of the loan include references to the person beneficially entitled to payment of the second purchase price.
- (8) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding second purchase price.
- (9) If arrangements to which section 503 of CTA 2009 applies are, by virtue of this section, qualifying investments under Chapter 2 of this Part, paragraph (f) of section 249(1) above is to be ignored in relation to the arrangements concerned.
- (10) In this section “the first purchase price” and “the second purchase price” have the same meaning as in section 503 of CTA 2009.

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## **258 Deposit arrangements**

- (1) This section applies if, under arrangements to which section 505 of CTA 2009 applies, a person (“the depositor”) deposits money with a financial institution.
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The depositor is treated as making a loan to the financial institution.
- (4) The amount of the loan is treated as being equal to the money deposited under the arrangements.
- (5) If the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money with the financial institution in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is deposited with the financial institution, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments deposited with the financial institution at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable deposit.
- (7) References to any repayment of the loan include references to any repayment of the deposit.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the deposit.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the deposit.
- (10) In this section “financial institution” has the same meaning as in Chapter 6 of Part 6 of CTA 2009 (see section 502 of that Act).

## **259 Profit share agency arrangements**

- (1) This section applies if, under arrangements to which section 506 of CTA 2009 applies, a person (“the principal”) appoints a financial institution as agent.
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The principal is treated as making a loan to the agent.
- (4) The amount of the loan is treated as being equal to the money provided by the principal to the agent under the arrangements.
- (5) If the arrangements provide that the principal will provide a sum of money to the agent in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the principal providing a sum of money to the agent in instalments,

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- (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is provided to the agent, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments provided to the agent at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable money provided to the agent.
- (7) References to any repayment of the loan include references to any repayment of the money provided to the agent.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the money provided to the agent.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the money provided to the agent.
- (10) In subsection (1) “financial institution” has the same meaning as in Chapter 6 of Part 6 of CTA 2009 (see section 502 of that Act).

#### *Miscellaneous*

### **260 Information to be provided by the investor**

- (1) If—
- (a) the investor has obtained CITR in respect of the investment, and
  - (b) an event occurs because of which CITR attributable to the investment in respect of any accounting period falls to be withdrawn or reduced by virtue of section 243, 244, 245 or 247,
- the investor must give an officer of Revenue and Customs a notice containing particulars of the event.
- (2) Subject to subsection (3), a notice under subsection (1) must be given not later than the end of the period of 12 months beginning with the end of the accounting period in which the event occurred.
- (3) If—
- (a) the investor is required to give a notice as a result of the receipt of value by a person connected with the investor (see section 253), and
  - (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under subsection (2),
- the notice must be given before the end of that 60 day period.

### **261 Disclosure**

- (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
- (a) by the Secretary of State to an officer of Revenue and Customs for the purpose of assisting Her Majesty’s Revenue and Customs to discharge their functions under the Corporation Tax Acts so far as relating to matters arising under this Part, or

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- (b) by an officer of Revenue and Customs to the Secretary of State for the purpose of assisting the Secretary of State to discharge the Secretary of State's functions in connection with this Part.
- (2) Information obtained by such disclosure is not to be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.

## **262 Nominees**

- (1) For the purposes of this Part—
  - (a) loans made by or to, or disposed of by, a nominee for a person are treated as made by or to, or disposed of by, that person, and
  - (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person are treated as subscribed for by, issued to, acquired or held by or disposed of by that person.
- (2) For the purposes of subsection (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

## **263 Application for postponement of tax pending appeal**

No application may be made under section 55(3) or (4) of TMA 1970 (application for postponement of payment of tax pending appeal) on the ground that a company is eligible for CITR unless a claim for the CITR has been duly made by the company under this Part.

## **264 Identification of securities or shares on a disposal**

- (1) This section applies for the purpose of identifying the securities or shares disposed of in any case where—
  - (a) the investor disposes of part of a holding of securities or shares (“the holding”), and
  - (b) the holding includes securities or shares to which CITR is attributable in respect of one or more accounting periods that have been held continuously by the investor from the time they were issued until the disposal.
- (2) Any disposal by the investor of securities or shares included in the holding which have been acquired by the investor on different days is treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (3) If there is a disposal by the investor of securities or shares included in the holding which have been acquired by the investor on the same day, any of those securities or shares—
  - (a) to which CITR is attributable, and
  - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,
 are treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.
- (4) For the purposes of this section a holding of securities is any number of securities of a company which—
  - (a) carry the same rights,



- (b) were issued under the same terms, and
- (c) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the securities grows or diminishes as securities carrying those rights and issued under those terms are acquired or disposed of.

- (5) For the purposes of this section a holding of shares is any number of shares in a company which—
- (a) are of the same class, and
  - (b) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the shares grows or diminishes as shares of that class are acquired or disposed of.

- (6) In a case to which section 127 of TCGA 1992 (equation of original shares and new holding) applies, shares comprised in the new holding are to be treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.
- (7) In subsection (6)—
- (a) the reference to section 127 of TCGA 1992 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
  - (b) “original shares” and “new holding” have the same meaning as in section 127 of TCGA 1992 or (as the case may be) that section as applied by virtue of the enactment in question.

### *Definitions*

#### **265 Meaning of “issue of securities or shares”**

- (1) In this Part—
- (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
  - (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.
- (2) In this Part references (however expressed) to an issue of securities of or shares in a body to a company are to such of the securities or shares in an issue of securities of or shares in that body as are issued to that company in one capacity.

#### **266 Meaning of “disposal”**

- (1) Subject to subsection (2), in this Part “disposal” is read in accordance with TCGA 1992, and related expressions are read accordingly.
- (2) An investor is treated as disposing of any securities or shares which but for section 151BC(1) of TCGA 1992 the investor—
- (a) would be treated as exchanging for other securities or shares by virtue of section 136 of that Act, or
  - (b) would be so treated but for section 137(1) of that Act (which restricts section 136 to genuine reconstructions).

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## **267 Construction of references to being “held continuously”**

- (1) This section applies if for the purposes of this Part it becomes necessary to determine whether the investor has held the investment (or any part of it) continuously throughout any period.
- (2) The investor is not treated as having held the investment (or any part of it) continuously throughout a period if the investor—
  - (a) is treated, under any provision of TCGA 1992, as having disposed of and immediately re-acquired the investment (or part) at any time during the period, or
  - (b) is treated as having disposed of the investment (or part) at any such time, by virtue of section 266(2) above.

## **268 Meaning of “associate”**

- (1) In this Part “associate”, in relation to a person, means—
  - (a) any relative or partner of that person,
  - (b) the trustee or trustees of any settlement in relation to which that person, or any relative of that person (living or dead), is or was a settlor, and
  - (c) if that person has an interest in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—
    - (i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
    - (ii) if that person is a company, any other company which has an interest in those shares or obligations.
- (2) In subsection (1)(a) and (b) “relative” means spouse or civil partner, ancestor or lineal descendant.
- (3) In subsection (1)(b) “settlor” and “settlement” have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

## **269 Minor definitions etc**

- (1) In this Part—
  - “body” includes an unincorporated association, and
  - “bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise).
- (2) For the purposes of this Part shares in a company are not treated as being of the same class unless they would be so treated if they were—
  - (a) included in the official UK list, and
  - (b) admitted to trading on the London Stock Exchange.
- (3) For the purposes of this Part the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (4) In this Part—
  - (a) references to CITR obtained by the investor in respect of any investment (or part of an investment) include references to CITR obtained by the investor in

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- respect of that investment (or part) at any time after the investor has disposed of it, and
- (b) references to the withdrawal or reduction of CITR obtained by the investor in respect of the investment (or any part of it) include references to the withdrawal or reduction of CITR obtained in respect of that investment (or part) at any such time.
- (5) In the case of any condition that cannot be met until a future date—
- (a) references in this Part to a condition being met for the time being are to nothing having occurred to prevent its being met, and
  - (b) references to its continuing to be met are to nothing occurring to prevent its being met.