
Changes to legislation: Finance Act 2011, Cross Heading: “Excluded” equity and liabilities is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 19 **U.K.**

THE BANK LEVY

PART 4 **U.K.**

CHARGEABLE EQUITY AND LIABILITIES

“Excluded” equity and liabilities

- 28 (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 29 to 39, or
 - (b) by an order made by the Treasury.
- (2) The Treasury may also by order add to, repeal or otherwise amend any of paragraphs 29 to 39.
- (3) An order under this paragraph may make consequential amendments of paragraph 76 (“long term” liabilities: non-protected deposits).
- (4) An order under this paragraph may have retrospective effect in relation to—
- (a) any chargeable period in which the order is made, or
 - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (5) Orders under this paragraph are to be made by statutory instrument.
- (6) 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.
- 29 (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) 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.
- ^{F1}(4)
- ^{F1}(5)
- ^{F1}(6)
- (7) A deposit is “protected” so far as it is covered by a guarantee—

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- (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-paragraph (2)^{F2}... “ 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).
- (9) In sub-paragraphs (3) and (7)^{F3}... “ deposit ” has the meaning given by article 5(2) of that Order but ignoring the exclusions in articles 6 to 9AB.
- (10) If two or all of sub-paragraphs (2), (3) 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.

Textual Amendments

- F1** Sch. 19 para. 29(4)-(6) omitted (with effect in accordance with Sch. 26 para. 8(5) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 26 para. 8\(2\)](#) (with [Sch. 26 para. 13](#))
- F2** Words in Sch. 19 para. 29(8) omitted (with effect in accordance with Sch. 26 para. 8(5) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 26 para. 8\(3\)](#) (with [Sch. 26 para. 13](#))
- F3** Words in Sch. 19 para. 29(9) omitted (with effect in accordance with Sch. 26 para. 8(5) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 26 para. 8\(4\)](#) (with [Sch. 26 para. 13](#))

- 30 (1) Equity and liabilities which are “tier one capital equity and liabilities” are excluded.
- [^{F4}(2) [^{F5}For the purposes of this paragraph,] Tier one capital equity and liabilities” means, in relation to an entity or group of entities, so much of the entity or group’s equity and liabilities as is tier one capital within the meaning of Article 25 of the Capital Requirements Regulation (taking account of the transitional provisions in Part Ten of that Regulation).
- (3) For the purposes of sub-paragraph (2), the Capital Requirements Regulation is to be treated as applying, in relation to all entities and groups of entities, as if—
- (a) to the extent it would not otherwise be the case, the Prudential Regulation Authority were the competent authority in relation to those entities and groups,
 - (b) the only determinations made, and discretions exercised, by the Prudential Regulation Authority for the purposes of the Capital Requirement Regulation were those published by it in accordance with that Regulation, and
 - (c) those entities and groups (to the extent that it would not otherwise be the case) were subject to the provisions of the [^{F6}the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook had effect from time to time)] immediately before 1 January 2014.
- (4) “The Capital Requirements Regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms.]

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Textual Amendments

- F4** Sch. 19 para. 30(2)-(4) substituted for Sch. 19 para. 30(2) (with effect in accordance with Sch. 26 para. 9(3) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 26 para. 9\(2\)](#) (with [Sch. 26 para. 13](#))
- F5** Words in Sch. 19 para. 30(2) inserted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 9](#)
- F6** Words in [Sch. 19 para. 30\(3\)\(c\)](#) substituted (5.4.2022 with application in relation to any chargeable period ending on or after 1.1.2022) by [The Taxation of Banks \(Amendments to the Corporation Tax Act 2009, Corporation Tax Act 2010 and Finance Act 2011\) Regulations 2022 \(S.I. 2022/286\)](#), regs. 1(2)(9), [14](#)

- 31 (1) Sovereign repo liabilities are excluded.
- (2) “Sovereign repo liability” means a liability of a person (“A”) which represents a sum of money or other asset received by A from another person (“B”) under an arrangement where—
- (a) under the arrangement A sells high quality securities at any time to B,
 - (b) the arrangement makes provision conferring a right or imposing an obligation on A to buy those or similar securities at any subsequent time, and
 - (c) the subsequent buying of those or similar securities would extinguish the liability.
- (3) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (2) as it applies for the purposes of Chapter 10 of Part 6 of that Act.
- [^{F7}(4) Securities are “high quality” if—
- [^{F8}(za) they are debt securities issued by the Bank of England, Her Majesty’s Government in the United Kingdom, or the government of Gibraltar,]
 - (a) they are debt securities issued by—
 - (i) the European Central Bank, a member State’s central bank or the central government of a member State,
 - (ii) the central bank of a country (other than a member State) where the exposure to the bank is assigned a credit assessment of at least credit quality step 1, as provided by Article 10(1)(b)(ii) of Commission Regulation 2015/61, or
 - (iii) the central government of a country (other than a member State) where the government is assigned a credit assessment of at least credit quality step 1, as provided by Article 10(1)(c)(ii) of Commission Regulation 2015/61, or
 - (b) they are securities, including debt securities, issued by the multinational development banks or the international organisations described in Article 10(1)(g) of Commission Regulation 2015/61.]

Textual Amendments

- F7** Sch. 19 para. 31(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Bank Levy \(Amendment of Schedule 19 to the Finance Act 2011\) Regulations 2016 \(S.I. 2016/874\)](#), regs. 1(1), [3](#)
- F8** Sch. 19 para. 31(4)(za) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [20\(2\)\(b\)](#) (with regs. 39-41); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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- 32 (1) Sovereign stock-lending liabilities are excluded.
- (2) “ Sovereign stock-lending liabilities ” means liabilities of the lender to redeliver equivalent cash collateral under a stock lending arrangement in respect of high quality securities.
- (3) Section 805 of CTA 2010 (“stock lending arrangement”) applies for the purposes of sub-paragraph (2) as it applies for the purposes of Chapter 5 of Part 17 of that Act, and the reference in sub-paragraph (2) to “ the lender ” is to be construed accordingly.
- (4) Paragraph 31(3) and (4) apply for the purposes of this paragraph.
- 33 (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 general insurance or contracts of long-term insurance, including such contracts effected or carried out outside the United Kingdom,
 - (b) liabilities representing unallocated surpluses, or
 - (c) liabilities representing participants' interests in collective investment schemes.
- (3) The liabilities of a regulated insurer within sub-paragraph (2)(c) include a liability which would be a liability of the insurer within that provision if the insurer prepared consolidated financial statements.
- (4) 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 general insurance ” means a contract of a type described in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);
- “ contract of long-term insurance ” means a contract of a type described in Part 2 of that Schedule;
- “ 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;
- “ unallocated surplus ” means the fund for future appropriations shown in line 15 of Form 3 of a return deposited with the [F⁹ Prudential Regulation Authority] under section 9.6 of the Interim Prudential Sourcebook for Insurers made by that Authority under FISMA 2000.

Textual Amendments

F9 Words in Sch. 19 para. 33(4) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), [Sch. para. 15\(4\)](#)

- 34 (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

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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.

35 (1) Relevant tax liabilities are excluded.

(2) ^{F10}... “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.

^{F11}(3)

Textual Amendments

F10 Words in Sch. 19 para. 35(2) omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 27\(a\)](#)

F11 Sch. 19 para. 35(3) omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 27\(b\)](#)

36 (1) Relevant retirement benefit liabilities are excluded.

(2) ^{F12}... “relevant retirement benefit liabilities” means liabilities under defined benefit plans within the meaning, for the time being, of International Accounting Standard 19.

^{F13}(3)

Textual Amendments

F12 Words in Sch. 19 para. 36(2) omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 28\(a\)](#)

F13 Sch. 19 para. 36(3) omitted (with effect in accordance with Sch. 9 para. 35 of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 9 para. 28\(b\)](#)

37 (1) Financial services compensation scheme liabilities are excluded.

(2) “Financial services compensation scheme liabilities” means liabilities representing—

- (a) levies payable by virtue of [^{F14} section 213(3)(b)] of FISMA 2000, or
- (b) levies payable for purposes comparable with those mentioned in [^{F14}section 213(3)(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.

Textual Amendments

F14 Words in Sch. 19 para. 37(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 134\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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- 38 (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 required to 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 [F15 section 137B of FISMA 2000 (FCA general rules: clients’ money, right to rescind etc.)], 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 [F16section 137B 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.

Textual Amendments

- F15** Words in Sch. 19 para. 38(3)(a) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(5)(a)**
- F16** Words in Sch. 19 para. 38(3)(b) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), art. 1(2), **Sch. para. 15(5)(b)**

- [F17]38A(1) Liabilities are excluded if they represent cash collateral provided as QCP margin in relation to a trade executed or to be executed under a client clearing agreement.
- (2) Cash collateral is provided as “QCP margin” if, and to the extent that—
- (a) it exceeds the fair value of the instrument to which the trade relates, and
 - (b) it corresponds to either—
 - (i) an asset held in respect of the qualifying central counterparty which represents cash collateral provided to that qualifying central counterparty, or
 - (ii) cash collateral provided to the qualifying central counterparty which has the effect of reducing a liability of the clearing member to the qualifying central counterparty.
- (3) In this paragraph—
- “clearing member”, in relation to a recognised central counterparty, has the meaning given by Article 2(14) of the EMIR Regulation,
- “client” has the meaning given by Article 2(15) of the EMIR Regulation,
- “client clearing agreement” means a contract between a clearing member of a qualifying central counterparty and a client, relating to the clearing of transactions with the qualifying central counterparty,
- “derivative contract” has the meaning given by international accounting standards,

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“the EMIR Regulation” means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories,

“qualifying central counterparty” means a central counterparty that has been either authorised or recognised under the EMIR Regulation,

“trade” means a transaction relating to the sale and purchase of a financial instrument or to the entering into of a derivative contract.]

Textual Amendments

F17 Sch. 19 para. 38A inserted (with effect in accordance with Sch. 26 para. 10(2) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 26 para. 10(1)** (with Sch. 26 para. 13)

- 39 (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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)