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SCHEDULES

SCHEDULE 26

Section 120

THE BANK LEVY: MISCELLANEOUS CHANGES

Introduction

- 1 Schedule 19 to FA 2011 (the bank levy) is amended in accordance with this Schedule.

High quality liquid assets etc

- 2 In paragraph 15 (chargeable equity and liabilities of a UK banking group or a building society group)—

- (a) in sub-paragraph (2)(c), for “finally,” substitute “ finally (subject to sub-paragraph (6)) ”, and
- (b) for sub-paragraph (6) substitute—

“(6) Where any amount (“A”) within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.”

- 3 In paragraph 17 (chargeable equity and liabilities of foreign banking groups)—

- (a) in sub-paragraph (6)(c), for “finally,” substitute “ finally (subject to sub-paragraph (16)) ”,
- (b) in sub-paragraph (12)(c), for “finally,” substitute “ finally (subject to sub-paragraph (16)) ”, and
- (c) for sub-paragraph (16) substitute—

“(16) Where any amount (“A”) within sub-paragraph (6)(c) or (12)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.”

- 4 In paragraph 19 (chargeable equity and liabilities of non-banking groups)—

- (a) in sub-paragraph (6)(c), for “finally,” substitute “ finally (subject to sub-paragraph (16)) ”,
- (b) in sub-paragraph (12)(c), for “finally,” substitute “ finally (subject to sub-paragraph (16)) ”, and
- (c) for sub-paragraph (16) substitute—

“(16) Where an amount (“A”) within sub-paragraph (6)(c) or (12)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.”

- 5 In paragraph 21 (chargeable equity and liabilities of UK resident banks and building societies which are not members of groups)—

- (a) in sub-paragraph (2)(c), for “finally,” substitute “ finally (subject to sub-paragraph (6)) ”, and

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(b) for sub-paragraph (6) substitute—

“(6) Where an amount (“A”) within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.”

6 In paragraph 27 (determination of foreign bank's chargeable equity and liabilities)

(a) in sub-paragraph (2)(c), for “finally,” substitute “ finally (subject to sub-paragraph (6)) ”, and

(b) for sub-paragraph (6) substitute—

“(6) Where an amount (“A”) within sub-paragraph (2)(c) is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.”

7 The amendments made by paragraphs 2 to 6 have effect in relation to chargeable periods ending on or after 1 January 2015.

Protected deposits

8 (1) Paragraph 29 (“excluded” equity and liabilities: protected deposits) is amended as follows.

(2) Omit sub-paragraphs (4) to (6).

(3) In sub-paragraph (8) omit “, and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (2),”.

(4) In sub-paragraph (9) omit “, and sub-paragraphs (4), (5) and (6) so far as relating to a scheme within sub-paragraph (3),”.

(5) The amendments made by this paragraph have effect for chargeable periods ending on or after 1 January 2015.

Tier one capital equity and liabilities

9 (1) Paragraph 30 (“excluded” equity and liabilities: tier one capital equity and liabilities) is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) 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

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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 PRA Handbook 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.”
- (3) The amendment made by this paragraph has effect in relation to chargeable periods ending on or after 1 January 2014.

Liabilities representing QCP margin in relation to trades executed under clearing agreements

10 (1) After paragraph 38 insert—

“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,

“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.”

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- (2) The amendment made by this paragraph has effect in relation to chargeable periods ending on or after 1 January 2014.

Certain liabilities deemed short term liabilities

- 11 (1) After paragraph 76 insert—
- “76A(1) Liabilities under derivative contracts are never “long term” (and are therefore always short term).
- (2) In this paragraph “derivative contract” has the meaning given by international accounting standards.”
- (2) In paragraph 75 (liabilities not required to be repaid within 12 months etc are long term liabilities), after sub-paragraph (2) insert—
- “(3) This paragraph is subject to paragraph 76A.”
- (3) In paragraph 77 (which relates to the calculation of “UK allocated equity and liabilities”), for “76” substitute “ 76A ”.
- (4) The amendments made by this paragraph have effect for chargeable periods ending on or after 1 January 2015.

Amendments consequential on regulatory changes

- 12 In paragraph 81 (power to make consequential amendments), in sub-paragraph (1), omit the “or” at the end of paragraph (b), and after paragraph (c) insert “, or
- (d) any regulatory requirement, or change to any regulatory requirement, imposed by EU legislation, or by or under any Act (whenever adopted, enacted or made).”

Transitional provision

- 13 (1) This paragraph applies where—
- (a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity (“E”) for an accounting period of E,
- (b) the chargeable period in respect of which the amount of the bank levy is charged falls (or partly falls) on or after 1 January 2014, and
- (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before the commencement date (“pre-commencement instalment payments”).
- (2) Paragraphs 9 and 10 of this Schedule are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.
- (3) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date (“post-commencement instalment payments”), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.
- (4) If there are no post-commencement instalment payments, a further instalment payment, in respect of the total liability of E for the accounting period, of an amount

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equal to the adjustment amount is to be treated as becoming due and payable at the end of the period of 30 days beginning with the commencement date.

- (5) “The adjustment amount” is the difference between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (2), and
 - (b) the aggregate amount of those instalment payments determined ignoring sub-paragraph (2) (and so taking account of paragraphs 9 and 10).
- (6) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to sub-paragraphs (1) to (5) above (and in regulation 7(2) “the regulation in question”, and in regulation 8(2) “that regulation”, are to be read accordingly), and
 - (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (1) to (5) above.
- (7) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to sub-paragraphs (1) to (6) above.
- (8) In this paragraph—
- “the chargeable period” is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;
 - “the commencement date” means the day on which this Act is passed;
 - “the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);
- and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

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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):

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)