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## **1 Promoters of tax avoidance schemes**

- (1) Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended in accordance with Schedule 1.
- (2) The amendments made by that Schedule have effect –
  - (a) from the day on which this Act is passed, and
  - (b) for the purposes of determining whether a person meets a threshold condition (within the meaning of Part 5 of FA 2014), or a condition in subsections (11) to (13) of Section 237A of FA 2014, in a period of three years ending on or after that day.

## **2 Disclosure of tax avoidance schemes**

Schedule 2 makes provision about the disclosure of tax avoidance schemes.

## **3 The GAAR and partnerships**

Schedule 3 makes provision about the operation of the general anti-abuse rule in relation to partnerships.

## **4 Penalties for enablers of defeated tax avoidance**

- (1) Schedule 16 to F(No.2)A 2017 (penalties for enablers of defeated tax avoidance) is amended as follows.
- (2) In paragraph 21 (special provision about assessment for multi-user schemes) –
  - (a) in sub-paragraph (1)(c), for “, the required percentage of relevant defeats has not been reached” substitute “(other than a tribunal or court defeat), neither condition 1 nor condition 2 has been met”;
  - (b) in sub-paragraph (2), for “the required percentage of relevant defeats is reached” substitute “condition 1 or condition 2 is met”;
  - (c) after sub-paragraph (2) insert –
    - “(2A) Condition 1 is that a defeat that is a tribunal or court defeat is incurred in the case of at least one of the number of related arrangements implementing the proposal.
    - (2B) Condition 2 is that the required number or percentage of relevant defeats is reached.
    - (2C) For the purposes of this paragraph, a defeat incurred in respect of arrangements is a “tribunal or court defeat” if –
      - (a) condition A (in paragraph 5) is met and the adjustments mentioned in paragraph 5(2) have been confirmed by a tribunal or court, or

- (b) condition B (in paragraph 6) is met and the assessment mentioned in paragraph 6(2) has been confirmed by a tribunal or court.
- (2D) An adjustment or assessment (as the case may be) has been confirmed by a tribunal or court if the First-tier Tribunal, the Upper Tribunal or a court has determined in proceedings before it that the adjustment or assessment in question should not be varied.
- (2E) For the purposes of sub-paragraph (2D), disregard variations that do not substantively alter the basis of the adjustment or assessment in question.”;
- (d) in sub-paragraph (3) –
  - (i) after “required” insert “number or”;
  - (ii) for the words from “defeats have” to the end of the sub-paragraph substitute “ –
    - (a) the number of related arrangements implementing the proposal is fewer than 21 and defeats have been incurred in the case of 50% or more of those arrangements;
    - (b) the number of related arrangements implementing the proposal is more than 20 but fewer than 44 and defeats have been incurred in the case of 11 or more of those arrangements;
    - (c) the number of related arrangements implementing the proposal is more than 43 but fewer than 200 and defeats have been incurred in the case of 25% or more of those arrangements;
    - (d) the number of related arrangements implementing the proposal is 200 or more and defeats have been incurred in the case of 50 or more of those arrangements.”
- (3) In paragraph 22 (time limit for assessment) –
  - (a) in sub-paragraph (3) –
    - (i) in paragraph (a), for “the required percentage of defeats was reached” substitute “condition 1 or condition 2 was met”;
    - (ii) for paragraph (b) substitute –
      - “(b) condition 1 or condition 2 has been met,”;
    - (iii) in paragraph (ii) for “that required percentage was reached” substitute “the first of condition 1 or condition 2 was met”;
  - (b) in sub-paragraph (4), in the words after paragraph (b), for “the required percentage of relevant defeats is reached” substitute “condition 1 or condition 2 is met”.
- (4) In paragraph 40 (information and inspection powers: application of Schedule 36 to FA 2008) –
  - (a) for sub-paragraph (1) substitute –
    - “(1) Schedule 36 to FA 2008 (information and inspection powers) applies for the purpose of –

- 
- (a) checking a relevant person's position as regards liability for a penalty under paragraph 1 in relation to particular tax arrangements;
    - (b) ascertaining the identity of any other person who has or may have enabled those arrangements,  
as it applies for the purpose of checking a person's tax position, subject to the modifications in paragraphs 41 to 43.”;
  - (b) in sub-paragraph (2), in the definition of “relevant person”, at the end of the definition insert “(or will become or may become so liable if T incurs a defeat)”;
  - (c) after sub-paragraph (2) insert –
    - “(3) References in this paragraph and paragraphs 41 and 42 to a person who has or may have enabled particular tax arrangements are to be read in accordance with Part 4 of this Schedule (persons who “enabled” the arrangements), save that –
      - (a) references in that Part to the arrangements mentioned in paragraph 1 (however expressed) are to be read as references to the particular tax arrangements, and
      - (b) references in that Part to “T” are to be read as references to the person who entered into the particular tax arrangements.”
  - (5) In paragraph 41 (general modifications of Schedule 36 to FA 2008 as applied) –
    - (a) in the words before sub-paragraph (a), for “the purpose” substitute “a purpose”;
    - (b) in sub-paragraph (d), for the words from “the investigation” to the end of the sub-paragraph substitute –
      - (i) the investigation of the relevant person's position as regards liability for a penalty under paragraph 1 in relation to particular tax arrangements, or (as the case may be)
      - (ii) the identification of any other person who has or may have enabled those arrangements, and”.
  - (6) In paragraph 42 (specific modifications of Schedule 36 to FA 2008 as applied) –
    - (a) in sub-paragraph (1) –
      - (i) for “the purpose” substitute “a purpose”;
      - (ii) for “(2)” substitute “(1A)”;
    - (b) after sub-paragraph (1) insert –
      - “(1A) Paragraph 1 (taxpayer notices) has effect as if the reference to checking the taxpayer's tax position (as modified by paragraph 41 of this Schedule) included a reference to ascertaining the identity of any other person who has or may have enabled the particular tax arrangements in relation to which the relevant person's position as regards liability to a penalty under paragraph 1 is to be checked.
      - (1B) Paragraph 10 (power to inspect business premises etc) has effect as if the reference to checking that person's tax position (as modified by paragraph 41 of this Schedule) included a

reference to ascertaining the identity of any other person who has or may have enabled the particular tax arrangements in relation to which the relevant person's position as regards liability to a penalty under paragraph 1 is to be checked.”;

(c) after sub-paragraph (2) insert –

“(2A) Paragraph 25 (tax advisers) is treated as omitted.”

- (7) In paragraph 43 (exclusion of paragraphs 50 and 51 of Schedule 36 to FA 2008), for “the purpose” substitute “a purpose”.
- (8) In paragraph 48 (restrictions on power to publish information about persons who have incurred a penalty) –
- (a) in sub-paragraph (1), omit paragraph (c);
  - (b) in sub-paragraph (2), for “(1)(c) and (d)” substitute “(1)(d)”;
  - (c) omit sub-paragraph (3).

## SCHEDULES

### SCHEDULE 1

Section 1

#### AMENDMENTS OF PART 5 OF FA 2014

##### PART 1

##### STOP NOTICES

- 1 After section 236 (of FA 2014) insert –

*“Stop notices*

##### **236A Power to give stop notices**

- (1) An authorised officer may give a person a notice (a “stop notice”) if the authorised officer suspects that the recipient promotes, or has promoted, arrangements, or proposals for arrangements, of a description specified in the notice.
- (2) A description of arrangements or of a proposal for arrangements may be specified in a stop notice only if the authorised officer considers that conditions A and B are met in respect of arrangements or proposals of that description.
- (3) Condition A is that arrangements or proposals of that description –
  - (a) would, if the arrangements or proposed arrangements had been implemented before 5 April 2019, have been likely to –
    - (i) cause a person to be treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 by virtue of paragraph 1(1) of Schedule 11 to F(No.2)A 2017 (loan charge: employment income), or
    - (ii) cause a relevant benefit to be treated as arising for the purposes of section 23A to 23H of ITTOIA 2005 by virtue of paragraph 1 of Schedule 11 to F(No.2)A 2017 (loan charge: trading income),
  - (b) are similar in form or effect to notifiable arrangements or a notifiable proposal within the meaning of Part 7 of FA 2004 to which a reference number has been allocated under section 311 of that Act,
  - (c) are similar in form or effect to notifiable arrangements or a notifiable proposal within the meaning of Schedule 17 to F(No.2)A 2017 to which a reference number has been allocated under paragraph 22 of that Schedule,
  - (d) are similar in form or effect to arrangements in relation to which a person has been given a follower notice under

- section 204 (circumstances in which a follower notice may be given) or a proposal to implement such arrangements, or
- (e) are similar in form or effect to arrangements or proposals of a description specified in regulations made by the Commissioners under this section.
- (4) Condition B is that –
- (a) arrangements or proposals of that description have been, or are likely to be, marketed (whether by the recipient of the stop notice or otherwise) as capable of enabling a person to obtain a particular tax advantage, and
- (b) it is more likely than not that arrangements or proposals of that description are not, or will not be, capable of enabling that advantage to be obtained.
- (5) For the purposes of this section, and sections 236B and 236F, a person promotes arrangements or a proposal for arrangements if the person does anything in connection with those arrangements or that proposal that would, if those arrangements or that proposal were relevant arrangements or a relevant proposal, cause the person to be carrying on a business as a promoter, or to be treated as such, for the purposes of this Part.

#### **236B Effect of stop notices**

- (1) A person subject to a stop notice must not promote any arrangements or proposal for arrangements that meet the description specified in the notice.
- (2) A person is subject to a stop notice for the purposes of this Part if –
- (a) the person is the recipient of the notice,
- (b) the person controls or has significant influence over a body corporate or partnership that is the recipient of the notice,
- (c) the person is a body corporate or partnership that the recipient of the notice controls or has significant influence over.
- (3) If the recipient of a stop notice controls or has significant influence over a person that is a body corporate or partnership, the recipient must –
- (a) give a copy of the notice to that person, and
- (b) provide HMRC with the information mentioned in subsection (5) in relation to that person.
- (4) If the recipient of a stop notice is a body corporate or partnership, it must –
- (a) give a copy of the notice to each person who controls or has significant influence over it, and
- (b) provide HMRC with the information mentioned in subsection (5) in relation to each such person.
- (5) The information referred to in subsections (3)(b) and (4)(b) in relation to a person is –
- (a) the person’s name;

- (b) any name under which the person carries on a business and any previous name or pseudonym known by the recipient of the stop notice;
- (c) the person's business address or registered office.

### **236C Quarterly returns**

- (1) A person subject to a stop notice must provide a return to HMRC containing the information described in subsection (4) for each relevant period.
- (2) The first relevant period is the 3 month period commencing on the day the stop notice was given to its recipient.
- (3) Each successive 3 month period that commences within the period of 3 years commencing on that day is a relevant period.
- (4) The information that must be contained in a return under subsection (1) is –
  - (a) the number (which may be nil) of persons to whom the person subject to the stop notice has provided services in relation to arrangements or a proposal for arrangements of the description specified in the notice (each a “relevant client”) in the relevant period to which the return relates,
  - (b) if the return is the return for the first relevant period, the number (which may be nil) of relevant clients to whom such services were provided at any time before the stop notice was given,
  - (c) in respect of each relevant client –
    - (i) the client's name and address,
    - (ii) the unique taxpayer reference number (if any) allocated to the client by HMRC, and
    - (iii) the client's national insurance number (if any),
  - (d) any name by which any such arrangements or proposal is known or is marketed.
- (5) If the person does not have the information referred to in subsection (4)(c)(ii) or (iii) in respect of a relevant client, the return must instead include a statement of that fact.
- (6) A return for a relevant period must be provided to HMRC before the end of the period of 15 days commencing on the last day of the relevant period.
- (7) An authorised officer may by notice to a person subject to the obligation to make a return under sub-paragraph (1) provide for that obligation to cease to have effect in relation to that person from such time as may be specified in the notice.

### **236D Withdrawal of stop notices**

- (1) A person subject to a stop notice may make a request for the notice to cease to have effect in relation to that person if the person –
  - (a) does not intend to promote, and has not promoted, arrangements or proposals for arrangements that fall within the description of arrangements or proposals specified in the notice,



- 
- (b) considers that condition A or condition B (or both) in section 236A is not met in relation to the description of arrangements or proposals for arrangements specified in the notice, or
  - (c) considers that there are other reasons (not related to the assessment of whether those arrangements or proposals might enable a person to obtain a particular tax advantage) for it to cease to have effect.
- (2) A request under subsection (1) must—
    - (a) be made in writing to an authorised officer,
    - (b) be made before the end of the period of 30 days beginning with the day on which the stop notice was given,
    - (c) contain an explanation of the basis for the request, and
    - (d) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.
  - (3) An authorised officer determining a request under subsection (1) must decide whether or not the notice is to cease to have effect in relation to the person who made the request.
  - (4) The authorised officer must give the person who made the request a notice setting out the officer’s decision (“a decision notice”) before the end of the period of 45 days beginning with the day on which the request was received.
  - (5) If at the end of that period the authorised officer has not given a decision notice, the stop notice ceases to have effect in relation to the person who made the request.
  - (6) An authorised officer may also determine that a stop notice is to cease to have effect in relation to a person who has not made a request under subsection (1) by giving the person a notice (“a withdrawal notice”).
  - (7) A decision notice or a withdrawal notice that provides for a stop notice to cease to have effect in relation to a person must specify the date on which it ceases to have effect in relation to that person, which may be earlier or later than the date on which the decision notice or withdrawal notice is given.

### **236E Appeal against decision not to withdraw stop notice**

- (1) A person may appeal against a refusal by an authorised officer to grant a request that a stop notice cease to have effect in relation to that person.
- (2) Notice of appeal must be given—
  - (a) in writing to the officer who gave the decision notice under section 236D(4), and
  - (b) within the period of 30 days beginning with the day on which the decision notice was given.
- (3) The notice of appeal must state the grounds of appeal.
- (4) The grounds of appeal that may be stated are the same as the grounds on which a person may request that a stop notice cease to have effect as mentioned in section 236D(1).

- (5) On an appeal that is notified to the tribunal, the tribunal may –
  - (a) confirm the refusal, or
  - (b) direct that the stop notice is to cease to have effect in relation to a person from such date as the tribunal consider appropriate (which may be earlier or later than the date on which the tribunal makes that direction).
- (6) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

**236F Stop notices: publication by HMRC**

- (1) An authorised officer may publish –
  - (a) the fact that a person is subject to a stop notice;
  - (b) details of any arrangements or proposal for arrangements promoted by that person that meet the description specified in the notice.
- (2) Publication under subsection (1) may also include the following information about the person –
  - (a) the person’s name;
  - (b) the person’s business address or registered office;
  - (c) any other information that the authorised officer considers it appropriate to publish in order to make clear the person’s identity.
- (3) The reference in subsection (2)(a) to the person’s name includes any name under which the person carries on a business and any previous name or pseudonym.
- (4) Publication may not take place before the end of the appeal period.
- (5) The “appeal period” means –
  - (a) the period during which a request under section 236D(1) (withdrawal of stop notices) could be made,
  - (b) where such a request was made, the period during which an appeal to the tribunal against a decision notice under section 236D(4) could be brought under section 236E, or
  - (c) where an appeal mentioned in paragraph (b) has been brought, the period during which the proceedings on that appeal to the tribunal have not been determined, withdrawn or otherwise disposed of.
- (6) For the purposes of subsection (5)(c), reference to proceedings on an appeal to the tribunal do not include any proceedings on appeal from the tribunal.”

2 After section 261 insert –

**“261A Information required in connection with stop notice**

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may (as often as is necessary for the purposes mentioned in subsection (2)) by notice in writing require a person who is subject to a stop notice –
  - (a) to provide information, or
  - (b) to produce a document,

if the information or document is reasonably required for any of the purposes mentioned in subsection (2).

- (2) Those purposes are –
  - (a) monitoring compliance by the person with the stop notice;
  - (b) establishing whether the person meets any of the threshold conditions;
  - (c) enabling HMRC to understand how arrangements or proposals for arrangements of the description specified in the stop notice would operate.
- (3) An officer of Revenue and Customs may by notice in writing require any person –
  - (a) to provide information, or
  - (b) to produce a document,
 if the information or document is reasonably required for the purposes mentioned in subsection (4).
- (4) Those purposes are –
  - (a) monitoring compliance with a stop notice by a person subject to that notice;
  - (b) establishing whether such a person meets any of the threshold conditions;
  - (c) establishing the identify of a person to whom a stop notice could be given.
- (5) A notice under subsection (3) may only be given –
  - (a) with the consent of the person to whom the information sought relates (where the identity of that person is known), or
  - (b) with the approval of the tribunal under section 261B.
- (6) Parts 7 and 8 of Schedule 36 to FA 2008 (penalties and offence) apply to a notice under subsection (3) as they apply to a third party notice (within the meaning of that Schedule).
- (7) Paragraph 53 of that Schedule has effect in relation to a notice under subsection (3) as if the reference in sub-paragraph (1)(b) of that paragraph to approval by the tribunal were to approval by the tribunal under section 261B.
- (8) References in this section to compliance with a stop notice are to compliance with the provisions of this Part that a person subject to a stop notice must comply with (see sections 236B(1), (3) and (4) and 236C(1), and subsection (1) of this section).

### **261B Approval of tribunal for notices under section 261A(3)**

- (1) An officer of Revenue and Customs may ask for the approval of the tribunal to the giving of a notice under section 261A(3).
- (2) An application for approval under this section may be made without notice (except as required under subsection (3)).
- (3) The tribunal may not approve the giving of a notice under section 261A(3) unless –
  - (a) an application for approval is made by, or with the agreement of, an authorised officer,

- (b) the tribunal is satisfied that, in the circumstances, the giving of the notice is justified,
    - (c) the person to whom the notice is to be given has been told that the information or documents referred to in the notice are required and given a reasonable opportunity to make representations to an officer of Revenue and Customs,
    - (d) the tribunal has been given a summary of any representations made by that person,
    - (e) the person to whom the notice relates has been given a summary of the reasons why an officer of Revenue and Customs requires the information and documents, unless the identity of that person is not known.
  - (4) Paragraphs (c) to (e) of subsection (3) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice –
    - (a) the achievement of the purposes for which the notice is to be given (see section 261A(4)), or
    - (b) the assessment or collection of tax.
  - (5) An officer of Revenue and Customs who gives a notice under section 261A(3) must give a copy of the notice to the person to whom it relates, unless –
    - (a) the identity of that person is not known, or
    - (b) the tribunal has disapplied this requirement.
  - (6) The tribunal may not disapply that requirement unless –
    - (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs, and
    - (b) the tribunal is satisfied that the officer has reasonable grounds for believing that giving a copy of the notice to the person to whom it relates might prejudice –
      - (i) the achievement of the purposes for which the notice is given, or
      - (ii) the assessment or collection of tax.”
- 3 (1) Section 273 (confidentiality) is amended as follows.
- (2) In subsection (1) before paragraph (a) insert –
- “(za) a person subject to a stop notice,
  - (zb) arrangements or proposals for arrangements of a description specified in a stop notice in relation to which a person subject to a stop notice is a promoter,”.
- (3) In subsection (2) –
- (a) in the words before paragraph (a) –
    - (i) after “client” insert “, in relation to a person mentioned in paragraph (za), (zb), (a) or (b) of subsection (1),”;
    - (ii) for “monitored promoter mentioned in subsection (1)(a) or (b)” substitute “person so mentioned”;
  - (b) in paragraphs (a) and (b), for “a relevant”, in both places it occurs, substitute “an applicable”;
  - (c) in paragraph (c), for “relevant” substitute “applicable”.

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- (4) In subsection (3) –
- (a) for “a relevant” substitute “an applicable”;
  - (b) for “monitored promoter mentioned in subsection (1)(a) or (b)” substitute “person mentioned in paragraphs (za), (zb), (a) or (b) of subsection (1)”.
- (5) In subsection (4), for “relevant”, in each place it occurs, substitute “applicable”.
- (6) After that subsection insert –
- “(5) Nothing in this section authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the power conferred by this section).
  - (6) For the purposes of this section, a person mentioned in subsection (1)(za) or (zb) is a promotor of arrangements or a proposal for arrangements if the person would be a promotor of those arrangements or proposal if those arrangements or that proposal were relevant arrangements or a relevant proposal (see section 235(2) to (6) and any regulations made under section 235(6)).
  - (7) In this section –
    - “applicable arrangements” means –
      - (a) in relation to a disclosure falling within subsection 1(za) or (zb), arrangements falling within the description specified in the stop notice to which the disclosure relates, or
      - (b) in relation to a disclosure falling within subsection 1(a) or (b), relevant arrangements;
    - “applicable proposal” means –
      - (a) in relation to a disclosure falling within subsection 1(za) or (zb), a proposal for arrangements falling within the description specified in the stop notice to which the disclosure relates, or
      - (b) in relation to a disclosure falling within subsection 1(a) or (b), a relevant proposal;
    - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).”
- 4 In section 283 (interpretation of Part 5), in subsection (1), at the appropriate place insert –
- ““stop notice” means a notice given under section 236A(1);
  - “subject to a stop notice”, in relation to a person, is to be construed in accordance with section 236B(2);”.
- 5 In Schedule 34 (threshold conditions), for paragraph 12 substitute –
- “12 A person meets this condition if the person is subject to a stop notice and fails to comply with –
    - (a) section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice),
    - (b) section 236C(1) (duty to make return to HMRC), or

(c) a notice given under section 261A(1) (information required in connection with stop notice).”

6 (1) Schedule 35 (penalties) is amended as follows.

(2) In paragraph 1 –

(a) before paragraph (a) insert –

“(za) section 236C(1) (duty to make return to HMRC);”;

(b) after paragraph (f) insert –

“(fa) section 261A(1) (information required in connection with stop notice);”.

(3) In paragraph 2 –

(a) in sub-paragraph (1), in the Table, at the appropriate places insert –

“section 236B(1) (promotion of arrangements or proposal of a description specified in a stop notice)	the relevant amount (see sub-paragraph (2A));”;
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“section 236C(1) (duty to make return to HMRC)	£X”;
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“section 261A(1) (information required in connection with stop notice)	£X”;
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(b) after that sub-paragraph insert –

“(1A) In relation to a failure to comply with subsection (1) of section 236C the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed –

(a) in respect of each failure to provide the required information or statement (see section 236C(5)) about a relevant client (within the meaning given by that section), and

(b) where no return was provided under that section before the end of the period within which it must be provided, for each subsequent day on which it is not provided.

(1B) In relation to a failure to comply with section 261A(1) the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed in respect of the first day on which the failure occurs and in respect of each day on which the failure continues.”;

(c) after sub-paragraph (2) insert –

“(2A) In relation to a failure to comply with section 236B(1), the “relevant amount” is the sum of –

(a) £100,000 in respect of one or more failures relating to a particular stop notice, and

- (b) £X in respect of each time a person is provided with any services, or any firm approach is made to a person, in relation to arrangements, or a proposal for arrangements, of a description specified in a stop notice where that provision or approach is in contravention of that section.
- (2B) For the purposes of sub-paragraph (2A) “firm approach” in relation to arrangements or a proposal for arrangements of a description specified in a stop notice is to be construed in accordance with section 235(4) to (6) as if references to relevant arrangements or a relevant proposal were to arrangements or a proposal for arrangements specified in a stop notice.”
- (4) In paragraph 3, in sub-paragraph (1), after “information duty” insert “, other than a duty arising under section 236C(1) or 261A(1),”.
- (5) In paragraph 4, in sub-paragraph (8), in paragraph (c)–
- (a) after “section” insert “236C(1);
  - (b) after “260,” insert “261A(1)”.
- (6) In paragraph 6–
- (a) in sub-paragraph (1), after “257” insert “, 261A(1)”;
  - (b) in sub-paragraph (5)–
    - (i) omit the “or” at the end of paragraph (a);
    - (ii) in paragraph (b), after “section” insert “257 applies but a duty under section”;
    - (iii) after paragraph (b) insert –
      - “(c) in any other case, the person will be taken to have failed to comply only with section 261A(1).”
- (7) In paragraph 7–
- (a) in sub-paragraph (1), after “257” insert “, 261A(1)”;
  - (b) in sub-paragraph (2), in paragraph (b), after “257” insert “, 261A(1)”;
  - (c) in sub-paragraph (4)–
    - (i) omit the “or” at the end of paragraph (a),
    - (ii) in paragraph (b), after “section” insert “257 applies but a duty under section”;
    - (iii) after paragraph (b) insert –
      - “(c) in any other case, the person will be taken to have failed to comply only with section 261A(1).”

## PART 2

## PROMOTION STRUCTURES

- 7 In section 235 (carrying on a business “as a promoter”), after subsection (1) insert–
- “(1A) For the purposes of this Part, a person is treated as carrying on a business as a promoter if the person is a member of a promotion structure (whether or not the person carries on a business).

Schedule 33A describes the cases in which a person is a member of a promotion structure.”

8 After Schedule 33 insert –

“SCHEDULE 33A

Section 235

PROMOTION STRUCTURES

*Cases in which a person is a member of a promotion structure.*

- 1 A person (“A”) is a member of a promotion structure if A falls within –
- (a) the case described in paragraph 2 (multiple entity promoter),
  - (b) the case described in paragraph 3 (acting for a non-resident promoter),
  - (c) the case described in paragraph 4 (control of another promoter), or
  - (d) the case described in paragraph 5 (transfer of promotion business).

*Multiple entity promoter*

- 2 (1) A falls within this case if –
- (a) A and one or more other persons carry out activities between them that if carried out by a single person would cause that person to be a promoter within the meaning of section 235(2) or (3), and
  - (b) each of the persons carrying out those activities is closely related to at least one other of those persons.
- (2) A person (“D”) is closely related to another person (“E”) if –
- (a) D is able to secure that E acts in accordance with D’s wishes (or vice versa),
  - (b) E typically acts in accordance with D’s wishes,
  - (c) it is reasonable to expect that E will act in accordance with D’s wishes,
  - (d) a third person is able to secure that D and E act in accordance with the third person’s wishes,
  - (e) D and E typically act in accordance with a third person’s wishes,
  - (f) it is reasonable to expect that D and E will act in accordance with a third person’s wishes, or
  - (g) the 50% investment condition is met in relation to D and E.
- (3) The 50% investment condition is met in relation to D and E if –
- (a) D has a 50% investment in E (or vice versa), or
  - (b) a third person has a 50% investment in each of D and E.
- (4) Subsections (3) to (9) of section 259ND of TIOPA 2010 apply for the purposes of determining whether a person has a “50% investment” in another person, and references in those subsections to X% are to be read as references to 50%.



*Acting for a non-resident promoter*

- 3 (1) A falls within this case if A acts under the instruction or guidance of a person (“O”) who carries on a business as a promoter and who is resident outside the United Kingdom, and –
- (a) A does any of the things mentioned in sub-paragraph (2) under that instruction or guidance, or
  - (b) A receives remuneration (of any kind) from O in connection with the business carried on by O.
- (2) The things referred to in sub-paragraph (1)(a) are –
- (a) being a promoter;
  - (b) facilitating any activity by virtue of which a person would be a promoter (for example, by facilitating the organisation of relevant arrangements or by facilitating the making of a relevant proposal available for implementation).
- (3) For the purposes of sub-paragraph (1)(b), reference to A receiving remuneration from O includes –
- (a) A receiving any payment or benefit as a consequence of instructions given by O (whether or not O is the source of that payment or benefit);
  - (b) A receiving any payment or benefit as a consequence of any arrangements that O made or participated in the making of, or that are referable to the business carried on by O (which may include relevant arrangements, or arrangements implementing a relevant proposal, promoted by O or which are otherwise referable to that business).
- (4) For the purposes of this paragraph a person is a promoter if the person meets the description of a promoter in section 235(2) or (3) (whether or not the person carries on a business).

*Control of another promoter*

- 4 (1) A falls within this case if –
- (a) A is an individual who controls, or has significant influence over, a body corporate or a partnership (“B”) that carries on a business as a promoter, and
  - (b) A meets the personal condition or the corporate condition.
- (2) The personal condition is that, at any time after A first controlled or had significant influence over B –
- (a) A was subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),
  - (b) A was bankrupt, or A’s estate had been sequestrated under the Bankruptcy (Scotland) Act 2016,
  - (c) A was the subject of an individual voluntary arrangement under Part 8 of the Insolvency Act 1986,

- (d) A's estate was subject to a protected trust deed (see section 163 of the Bankruptcy (Scotland) Act 2016),
  - (e) A was subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order,
  - (f) A was subject to a debt relief order, or
  - (g) A was subject to a debt relief restrictions order or interim debt relief restrictions order.
- (3) The corporate condition is that at any time A controlled, or had significant influence over, a body corporate or a partnership (other than B) that carried on business as a promoter that was dissolved, became insolvent or, in the case of a body corporate, became dormant.
- (4) For the purposes of this paragraph, a body corporate or partnership becomes insolvent –
- (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
  - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
  - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
  - (d) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
  - (e) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
  - (f) if a bank administration order takes effect under Part 3 of that Act, or
  - (g) on the occurrence of any corresponding event which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (5) For the purposes of this paragraph, a body corporate is dormant if –
- (a) in the case of a body corporate incorporated in the United Kingdom, it is dormant within the meaning given by section 1169 of the Companies Act 2006, or
  - (b) in any other case, it would be dormant within the meaning of that section if the body corporate were incorporated in the United Kingdom.
- (6) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of “control” and “significant influence”) apply to this paragraph as they apply to Part 2 of that Schedule.
- (7) In this paragraph –
- “bankruptcy restrictions order” or “interim bankruptcy restrictions order” means such an order (or as the case may be, undertaking) under –
- (a) Schedule 4A to the Insolvency Act 1986,

- (b) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) Part 13 of the Bankruptcy (Scotland) Act 2016 (asp 21);
- “debt relief order” means such an order under –
- (a) Part 7A of the Insolvency Act 1986, or
  - (b) Part 7A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));
- “debt relief restrictions order” or “interim debt relief restrictions order” means such an order (or as the case may be, undertaking) under –
- (a) Schedule 4ZB to the Insolvency Act 1986, or
  - (b) Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

*Transfer of promotion business*

- 5 (1) A falls within this case if –
- (a) there has been a relevant transfer to A, or
  - (b) there has been a relevant transfer to a body corporate or partnership that A controls, or has significant influence over.
- (2) For the purposes of sub-paragraph (1) “relevant transfer” means a transfer of –
- (a) the whole of the business of a person carrying on business as a promoter;
  - (b) any part of such a business that relates to the promotion of relevant arrangements or relevant proposals;
  - (c) property, rights or liabilities of such a business that are connected with the promotion of relevant arrangements or relevant proposals.
- (3) In sub-paragraph (2) “transfer” means any transfer in substance (whether or not the transfer is formal or for consideration, and whether or not the transfer is direct).
- (4) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of “control” and “significant influence”) apply to this paragraph as they apply to Part 2 of that Schedule.”
- 9 In section 237 (duty to give conduct notice), after subsection (8) insert –
- “(8A) Where the authorised officer is required to make a determination under subsection (5), the officer must determine that the condition (or if more than one is met, all of them) should be regarded as significant if P falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter).”
- 10 In section 237A (duty to give conduct notice: defeat of promoted arrangement) after subsection (3B) (as inserted by paragraph 20(2) of this Schedule) insert –
- “(3C) If a person meets a condition in subsection (11), (12) or (13) and the person falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter), the authorised officer must determine

(whether under subsection (1) or (3)(a) or (b)) that the meeting of the condition should be regarded as significant.”

- 11 In section 250 (allocation of promoter reference number), in subsection (2) –
- (a) omit the “and” at the end of paragraph (a);
  - (b) after that paragraph insert –
    - “(aa) any person who HMRC know falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and”.
- 12 (1) Section 251 (duty of monitored promoter to notify clients and intermediaries of number) is amended as follows.
- (2) In the heading for “and intermediaries” substitute “etc”.
  - (3) In subsection (2) –
    - (a) omit the “and” at the end of paragraph (c);
    - (b) after that paragraph insert –
      - “(ca) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and”.
- 13 (1) Section 252 (duty of those notified to notify others of promoter’s number) is amended as follows.
- (2) After subsection (4) insert –
 

“(4A) Where the notified client is a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter concerned, the notified client must also, within 30 days, provide the promoter reference number to –

    - (a) any person to whom the notified client has, since the monitoring notice in relation to the monitored promoter concerned took effect, communicated, for the purposes of any business (whether carried on by the notified client or not), information about a relevant proposal of the monitored promoter, and
    - (b) any person who the notified client might reasonably be expected to know has, since that monitoring notice took effect, entered into, or is likely to enter into, transactions forming part of relevant arrangements in relation to which that monitored promoter is a promoter.”;
  - (3) In subsection (5), for “Subsection (2) or (4) does” substitute “Subsections (2), (4) and (5) do”.
- 14 In section 258 (duty of person dealing with non-resident monitored promoter), in subsection (3) –
- (a) omit the “and” at the end of paragraph (a);
  - (b) after that paragraph insert –
    - “(aa) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting

- 
- under the instruction or guidance of the monitored promoter, and”.
- 15 (1) Section 260 (intermediaries: duty to provide information about clients) is amended as follows.
- (2) In the heading, after “intermediaries” insert “etc”.
- (3) In subsection (1) –
- (a) the words from “a person” to the end become paragraph (a);
- (b) at the end of that paragraph insert “;
- (b) a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter.”
- (4) In subsection (3)(a) for “the intermediary” substitute “the person to whom the notice is given”.
- (5) In subsection (5) –
- (a) in the words before paragraph (a), for “the intermediary” substitute “the person to whom the notice under subsection (1) is given (“R”);
- (b) in paragraph (a), for “the intermediary” substitute “R”.
- (6) In subsection (6) for “the intermediary”, in each place it occurs, substitute “R”.
- 16 In section 283 (interpretation), after subsection (3) insert –
- “(4) Any reference in this Part to a person’s activities as a promoter includes –
- (a) if the person falls within the case described in paragraph 2 of Schedule 33A, the activities carried out by the person and other persons by virtue of which the person falls within the case,
- (b) if the person falls within the case described in paragraph 3 of that Schedule, activities carried out under the instruction or guidance of a person who carries on business as a promoter,
- (c) if the person falls within the case described in paragraph 4 of that Schedule, the activities of the body corporate or partnership that the person controls, and
- (d) if the person falls within the case described in paragraph 5 by virtue of sub-paragraph (1)(b) of that paragraph, the activities of the body corporate or partnership that the person controls.”
- 17 In Schedule 34 (threshold conditions) in paragraph 13B, in sub-paragraph (5), after “individual” insert “who does not fall within the case described in paragraph 4 or 5 of Schedule 33A”.

PART 3

CONDUCT AND MONITORING NOTICES: TRANSFEREES

*Conduct notices: transferees*

18 After section 239 insert—

**“239A Conduct notice: transferees**

- (1) This section applies if an authorised officer becomes aware at any time that a person to whom a conduct notice has been given (“P”) has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person (“D”).
- (2) The authorised officer may give D a conduct notice.
- (3) If the proposed terms of the conduct notice to be given to D are the same as the terms of the conduct notice given to P, section 238(2) (content of conduct notice: opportunity to comment) does not apply in relation to the proposed terms.
- (4) If the proposed terms of the conduct notice to be given to D differ from the terms of the conduct notice given to P, section 238(2) applies in relation to the proposed terms as if the reference in that provision to “the proposed terms of the notice” were a reference to the differences between the proposed terms of the conduct notice to be given to D and the terms of the conduct notice given to P.”

*Monitoring notices: transferees*

19 (1) After section 244 insert—

**“244A Monitoring notices: transferees**

- (1) This section applies if an authorised officer becomes aware at any time that a person to whom a monitoring notice has been given (“P”) has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person (“D”).
  - (2) The authorised officer may give D a monitoring notice.
  - (3) Subsections (2) to (4) of section 244 (monitoring notice: content and issuing) apply in relation to a monitoring notice given under subsection (2) of this section as they apply to a monitoring notice given under subsection (1) of that section, but as if the reference in subsection (3)(a) of that section to “the person” were a reference to P.”
- (2) In section 247 (appeal against refusal to withdraw monitoring notice), after subsection (3) insert—
- “(3A) Where the appeal is against a refusal of a request that a monitoring notice given under section 244A should cease to have effect, the only ground of appeal is that P has not made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D.

In this subsection “P” and “D” have the meanings that they have in section 244A (and, accordingly, the appeal to which this subsection relates is brought by D).”

- (3) In section 248 (publication by HMRC), in subsection (2)(c), for “mentioned in section 242(1)(a)” substitute “as a promoter which the monitored promoter is carrying on”.

#### PART 4

##### MISCELLANEOUS AMENDMENTS

###### *Conduct notices: significance of conditions*

- 20 (1) In section 237 (duty to give conduct notices) –
- (a) in subsection (5), in paragraph (b) –
    - (i) omit sub-paragraph (i) (and the “and” after it);
    - (ii) in sub-paragraph (ii), for “(or conditions)” substitute “(or, if more than one condition is met, the meeting of all of those conditions, taken together)”;
  - (b) after that subsection insert –
 

“(5A) In determining under subsection (5)(b) whether or not P’s meeting of the condition (or conditions) should be regarded as significant, the authorised officer must determine whether the meeting of that condition (or those conditions taken together) by the person mentioned in subsection (1A)(a) should be regarded as significant in view of the purposes of this Part.

(5B) If the officer determines that the meeting of the condition (or those conditions) by that person should be regarded as significant, the officer must determine that P’s meeting of that condition (or those conditions) should be regarded as significant.”;
  - (c) in subsection (7A) –
    - (i) in the words before paragraph (a) omit “both”;
    - (ii) omit paragraph (a) (and the “and” after it).
- (2) In section 237A (duty to give conduct notices: defeat of promoted arrangements) –
- (a) in subsection (3) omit paragraph (a) (and the “and” after it);
  - (b) after that subsection insert –
 

“(3A) In determining under subsection (3) whether or not P’s meeting of the condition should be regarded as significant, the authorised officer must determine whether the meeting of that condition by the person mentioned in subsection (2)(a) should be regarded as significant in view of the purposes of this Part.

(3B) If the officer determines that the meeting of the condition by that person should be regarded as significant, the officer must determine that P’s meeting of that condition should be regarded as significant.”;

- (c) in subsection (9) omit paragraph (a) (and the “and” after it).

*Conduct notices: regular provision of information*

- 21 In section 238 of FA 2014 (content of conduct notices), in subsection (3), at the end insert –
- “(h) to ensure that the recipient provides such information or documents to HMRC as are required for the purpose of monitoring whether and to what extent the recipient is complying with any of the conditions in the notice.”

*Conduct notices: duration*

- 22 In section 241 (duration of conduct notice) –
- (a) In subsection (2) –
- (i) in paragraph (a), for “the period of two years” substitute “the relevant period”;
- (ii) omit the “or” at the end of paragraph (a);
- (iii) omit paragraph (b);
- (b) after subsection (4) insert –
- “(4A) For the purposes of subsection (2)(a), the relevant period in relation to a conduct notice is calculated in accordance with this table –

<i>If the authorised officer is aware that the person to whom the notice is given meets</i>	<i>the relevant period is such period as may be notified in accordance with subsection (4B) or (4C) up to</i>
1 ordinary condition	2 years
2 ordinary conditions	4 years
3 or more ordinary conditions	5 years
1 significant condition	3 years
1 significant condition and 1 or more other significant or ordinary conditions	5 years

Subsection (4E) makes provision for the relevant period to be extended in certain circumstances.

- (4B) When an authorised officer gives a person a conduct notice the officer must notify the person of the relevant period calculated by reference to the conditions which the officer is aware the person has met at that time.
- (4C) If an authorised officer becomes aware that a person in relation to whom a conduct notice has effect has met one or more conditions which were not taken into account when the relevant period was calculated at the time the notice was given, the officer may give the person a notice –



- 
- (a) stating that the relevant period has been recalculated to take account of the additional conditions, and
  - (b) notifying the person of –
    - (i) the new relevant period as recalculated in accordance with the table in subsection (4A), and
    - (ii) the new date at the end of which the conduct notice will cease to have effect.
- (4D) For the purposes of the table in subsection (4A) –
- (a) a condition is significant if it is –
    - (i) a threshold condition listed in section 237(9), or
    - (ii) a condition in section 237A(11), (12) or (13) in respect of which an authorised officer makes a determination (whether in accordance with section 237A(1) or (2) or for the purposes of this paragraph) that meeting the condition should be regarded as significant in view of the purposes of this Part, and
  - (b) a condition is ordinary if it is a threshold condition not listed in section 237(9).
- (4E) In calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on all or part of which the effect of the conduct notice in question has been suspended by an authorised officer.
- (4F) Where an authorised officer suspends the effect of a conduct notice, the officer must, as soon as practicable, notify the person to whom the notice was given of the suspension.
- (4G) Where an authorised officer determines that the effect of a conduct notice should be resumed, the officer must, as soon as practicable, notify the person to whom the notice was given –
- (a) that its effect has been resumed,
  - (b) of the number of days that are not to be taken into account in calculating the relevant period in accordance with subsection (4E), and
  - (c) of the new date at the end of which the relevant period is expected to end.
- (4H) Where a conduct notice has been given to a person and the person is subsequently given a notice under section 262 (information required for monitoring compliance with conduct notice), in calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on which the person has not complied with the notice under section 262.
- (4I) For the purposes of subsection (4H), a person has not complied with a notice given under section 262 on each day –
- (a) beginning with the day after the last day on which the person could have complied with the notice, and

- (b) ending with the day before the day (or, if more than one, the last day) on which the person provides the information or produces the documents required by the notice.
- (4J) As soon as reasonably practicable after the day mentioned in subsection (4I)(b), an authorised officer must give the person to whom the conduct notice was given notice of –
  - (a) the number of days that are not to be taken into account in calculating the relevant period, and
  - (b) of the new date at the end of which the relevant period is expected to end.”

*Defeat notices*

- 23 In section 241A (defeat notices), in subsection (4), for “come to the attention of HMRC” substitute “first come to the attention of an authorised officer”.
- 24 In Schedule 34A (defeated arrangements) –
  - (a) in paragraph 13(1)(a), after “DOTAS arrangements” insert “or DAC6 arrangements”;
  - (b) after paragraph 26 insert –
 

“26ZA(1)For the purposes of this Schedule arrangements are “DAC6” arrangements if they are reportable cross-border arrangements within the meaning of the International Tax Enforcement (Disclosable Arrangements) Regulations 2020 (S.I. 2020/25) (see regulation 2(1)).”

*Monitoring notices: applications to tribunal*

- 25 (1) In section 242 (monitoring notices: duty to apply to tribunal), in subsection (1) –
  - (a) in paragraph (b) –
    - (i) the words from “has failed” to the end become sub-paragraph (i);
    - (ii) at the end of that sub-paragraph insert “, or
      - (ii) has provided false or misleading information or documents in relation to the notice,”;
  - (b) in the words after paragraph (b), after “the authorised officer must” insert “, within the period of 12 months beginning with the day on which the authorised officer makes the determination,”.
- (2) After subsection (1) insert –
  - “(1A) Where subsection (1B) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“P”) a monitoring notice.
  - (1B) This subsection applies where –
    - (a) within the period of 6 years after a conduct notice ceases to have effect in relation to P, the officer mentioned in subsection (1A) determines that P –

- (i) failed to comply with one or more conditions in the notice, or
    - (ii) provided false or misleading information or documents in relation to the notice, and
  - (b) the officer could not reasonably have been expected to make the determination when the conduct notice had effect.
- (1C) An application under subsection (1A) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1B)(a).
- (1D) Where subsection (1E) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“D”) a monitoring notice.
- (1E) This subsection applies where –
- (a) at any time before the end of the period of 6 years after a conduct notice ceases to have effect in relation to a person (“P”), an authorised officer determines that P –
    - (i) failed to comply with one or more conditions in the notice, or
    - (ii) provided false or misleading information or documents in relation to the notice,
  - (b) before the end of the period of 6 years after the conduct notice ceases to have effect, the authorised officer becomes aware that P has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D, and
  - (c) the officer could not reasonably have been expected –
    - (i) to apply to the tribunal for approval to give P a monitoring notice, or
    - (ii) to give P a monitoring notice following such an application,
 before the relevant transfer took place.
- (1F) For the purposes of an application under subsection (1D), any act or omission of P by reference to which the determination mentioned in subsection (1E)(a) was made is to be treated as an act or omission of D.
- (1G) An application under subsection (1D) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1E)(a).”

*Threshold conditions*

- 26 Schedule 34 (threshold conditions) is amended as follows.
- 27 (1) Paragraph 5 (non-compliance with Part 7 of FA 2004) is amended in accordance with sub-paragraphs (2) to (7).
- (2) In the heading, for “Part 7 of FA 2004” substitute “avoidance disclosure requirements”.

(3) Before sub-paragraph (1) insert –

“(A1) A person meets this condition if the person fails to comply with any of the following provisions of –

- (a) Part 7 of FA 2004 (disclosure of tax avoidance schemes);
- (b) Schedule 17 to F(No. 2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes);
- (c) the International Tax Enforcement (Disclosable Arrangements) Regulations 2020 (S.I. 2020/25).”

(4) In sub-paragraph (1) –

- (a) for the words before paragraph (a) substitute “The provisions of Part 7 FA 2004 are –”;
- (b) after paragraph (c) insert –
  - “(ca) section 310C (duty of promoter to provide updated information);
  - (cb) section 312(2) (duty of promoter to notify client of reference number);
  - (cc) section 312A(2) or (2A) (duty of client to notify parties of reference number);”;
- (c) after paragraph (d) insert –
  - “(e) section 313 (duty of parties to notifiable arrangements to notify Board of number etc);
  - (f) section 316A (duty to provide additional information).”

(5) After sub-paragraph (1) insert –

“(1A) The provisions of Schedule 17 to F(No.2)A 2017 are –

- (a) paragraph 11(1) (duty of promoter in relation to notifiable proposals);
- (b) paragraph 21(3) (duty of promoter to provide updated information);
- (c) paragraph 23(2) (duty of promoter to notify client of reference number);
- (d) paragraph 24(3) (duty of client to notify parties of reference number);
- (e) paragraph 26(1) (duty of parties to notifiable arrangements to notify HMRC of number etc);
- (f) paragraph 27(3) (duty of promoter to provide details of clients);
- (g) paragraph 33 (duty to provide additional information).

(1B) The provisions of the International Tax Enforcement (Disclosable Arrangements) Regulations 2020 are –

- (a) regulation 3(1) and (4) (reporting obligations: UK intermediaries);
- (b) regulation 4(1) (reporting obligations: UK relevant taxpayers).”

(6) In sub-paragraph (2) –

- (a) for “sub-paragraph (1)” substitute “sub-paragraphs (1), (1A) and (1B)”;

- (b) for “that sub-paragraph” substitute “any of those sub-paragraphs”.
- (7) In sub-paragraph (4), after “TMA 1970” insert “, paragraph 48 of Schedule 17 to F(No.2)A 2017 or, as the case may be, regulation 21 of the International Tax Enforcement (Disclosable Arrangements) Regulations 2020”.
- 28 In paragraph 7 –
- (a) before the existing text, insert –
- “*(1) A person meets this condition if one or more of sub-paragraphs (2) to (4) apply in respect of the person.*”;
- (b) the existing text becomes sub-paragraph (2);
- (c) in that sub-paragraph (2), for “A person meets this condition if” substitute “This sub-paragraph applies in respect of a person if”;
- (d) after that sub-paragraph, insert –
- “*(3) This sub-paragraph applies in respect of a person (“P”) if –*
- (a) another person has been given, in respect of arrangements in relation to which P is a promoter (“the promoted arrangements”) –
- (i) a pooled arrangements opinion notice, under paragraph 6(2) of Schedule 43A to FA 2013, or
- (ii) a bound arrangements opinion notice under paragraph 6(4) of that Schedule,
- (b) the notice in question sets out a report prepared by HMRC of an opinion of the GAAR Advisory Panel in relation to the promoted arrangements that is contained in one or more opinion notices given under paragraph 11(3)(b) of Schedule 43 to FA 2013 or paragraph 6(4)(b) of Schedule 43B to FA 2013, and
- (c) the opinion notice, or the opinion notices taken together, either –
- (i) state the joint opinion of all the members of the sub-panel arranged under Schedule 43 or 43B, as the case may be, or
- (ii) state the opinion of two or more members of the sub-panel.
- (4) This sub-paragraph applies in respect of a person if –
- (a) arrangements in relation to which the person is a promoter (“the promoted arrangements”) are equivalent within the meaning of paragraph 24(3) of Schedule 16 to F(No. 2)A 2017 to arrangements that have been referred to the GAAR Advisory Panel under paragraph 26 of that Schedule,
- (b) one or more opinion notices are given under paragraph 34(3)(b) of Schedule 16 to F(No.2)A 2017 that apply to the promoted arrangements for the purposes of Part 7 of that Schedule, and
- (c) the notice, or the notices taken together, either –

- (i) state the joint opinion of all the members of the sub-panel arranged under that Schedule, or
  - (ii) state the opinion of two or more members of that sub-panel.”
- 29 In paragraph 10 (exercise of information powers) –
- (a) in sub-paragraph (1), for the words from “an information notice” to the end substitute “a requirement imposed by a notice or order given under any of the following provisions –
    - (a) section 308A, 310A, 313ZB, 313A and 313B of FA 2004;
    - (b) paragraphs 1, 2, 5 and 5A of Schedule 36 to FA 2008;
    - (c) paragraphs 16, 19, 28, 29 and 30 of Schedule 17 to F(No.2)A 2017;
    - (d) regulation 11(1) of the International Tax Enforcement (Disclosable Arrangements) Regulations 2020 (S.I. 2020/25).”;
  - (b) in sub-paragraph (2), after “notice” insert “or order”.

## SCHEDULE 2

Section 2

### DISCLOSURE OF TAX AVOIDANCE SCHEMES

#### PART 1

#### AMENDMENTS OF PART 7 OF FA 2004

- 1 Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.
- 2 Before section 306 insert –

#### “305A Introduction

- (1) This Part makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage.
- (2) Among other things, this Part –
  - (a) imposes duties to provide information to HMRC (and others);
  - (b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where the disclosure duties have been complied with and in other cases);
  - (c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;
  - (d) makes provision about penalties.”

3 In section 307(4A) (meaning of “makes a firm approach”), omit “notifiable” in both places.

4 After section 310C insert –

**“310D Notice of potential allocation of reference number: arrangements and proposals suspected of being notifiable**

- (1) This section applies where –
  - (a) HMRC have become aware that –
    - (i) a transaction forming part of arrangements has been entered into,
    - (ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or
    - (iii) a proposal for arrangements is made available for implementation, and
  - (b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.
- (2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.
- (3) But HMRC may not issue a notice under this section before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) is met.
- (4) Where HMRC reasonably suspect a person to be a promoter in relation to the arrangements or proposal, a notice under this section –
  - (a) must be issued to that person, and
  - (b) may also be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.
- (5) In any other case, a notice issued under this section may be issued to any person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.”

5 For section 311 substitute –

**“311 Allocation of reference number to arrangements**

- (1) This section applies in –
  - (a) a subsection (2) case, or
  - (b) a subsection (3) case.
- (2) A “subsection (2) case” is a case where a person complies, or purports to comply, with section 308(1) or (3), 309(1) or 310 in relation to a notifiable proposal or notifiable arrangements.
- (3) A “subsection (3) case” is a case where –

- (a) notice in relation to arrangements or a proposal has been given in accordance with section 310D (notice of potential allocation of reference number),
  - (b) the notice period has expired, and
  - (c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.
- (4) “The notice period” means—
- (a) the period of 30 days beginning with the day on which the notice under section 310D is issued, or
  - (b) such longer period as HMRC may direct.
- (5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to subsection (6).
- (6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.
- (7) The time limit for allocating a reference number is—
- (a) in a subsection (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with section 308(1) or (3), 309(1) or 310, as the case may be;
  - (b) in a subsection (3) case, the end of the period of one year beginning with the day after the end of the notice period (see subsection (4)).
- (8) HMRC may at any time withdraw a reference number allocated to arrangements in a subsection (3) case.
- (9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

### **311A Duty of HMRC to notify persons of reference number**

- (1) If a reference number is allocated in a case within section 311(2), HMRC must notify the following of the number—
- (a) the person who has complied, or purported to comply, with section 308(1) or (3), 309(1) or 310, and
  - (b) where the person has complied, or purported to comply, with section 308(1) or (3), any other person—
    - (i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements or (a proposal implemented by them), and
    - (ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with section 308(1) or (3).
- (2) If a reference number is allocated in a case within section 311(3), HMRC must notify any person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements, or the proposed arrangements, of the number.



**311B Right of appeal: section 311(3) case**

- (1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).
- (2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.
- (3) An appeal under this section may be brought only on the following grounds –
  - (a) that, in issuing the notice under section 310D as a result of which the reference number was allocated, HMRC did not act in accordance with that section;
  - (b) that, in allocating the reference number, HMRC did not act in accordance with section 311;
  - (c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.
- (4) Notice of appeal under this section must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.
- (5) Notice may be given after that time if the tribunal give permission.
- (6) The notice of appeal must specify the grounds of appeal.
- (7) On an appeal under this section, the tribunal may affirm or cancel HMRC's decision.
- (8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.
- (9) Bringing an appeal under this section does not prevent –
  - (a) a power conferred by this Part from being exercised, or
  - (b) a duty imposed by this Part from continuing to apply.

**311C Duty to provide further information requested by HMRC: section 311(3) case**

- (1) This section applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within section 311(3).
- (2) HMRC may require any person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements to provide –
  - (a) specified information about the arrangements or proposed arrangements;
  - (b) documents relating to the arrangements or proposed arrangements.
- (3) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.

- (4) Where HMRC impose a requirement on a person under subsection (2), the person must comply with the requirement before the end of –
- (a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or
  - (b) such longer period as HMRC may direct.”
- 6 (1) Section 312 (duty of promoter to notify client of reference number) is amended as follows.
- (2) In the heading, at the end insert “: section 311(2) case”
- (3) In subsection (2) –
- (a) after “any reference number” insert “allocated in a case within section 311(2)”;
  - (b) for “one reference number” substitute “one such reference number”.
- 7 After section 312 insert –
- “312ZA Duty to notify client of reference number: section 311(3) case**
- (1) This section applies where a person is providing (or has provided) services to any person (“the client”) in connection with arrangements or proposed arrangements.
  - (2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case within section 311(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to –
    - (a) the arrangements or proposed arrangements, or
    - (b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).
  - (3) “The relevant date” means the date on which the person has been notified of the reference number.
  - (4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty under subsection (2) after the date specified in the notice.”
- 8 (1) Section 312A (duty of client to notify parties of reference number) is amended as follows.
- (2) In subsection (1) –
- (a) after “prescribed information” insert “under section 312”;
  - (b) for “allocated to the notifiable arrangements or proposed notifiable arrangements” substitute “allocated to –
    - (a) the notifiable arrangements or proposed notifiable arrangements, or
    - (b) any arrangements substantially the same as the notifiable arrangements or proposed notifiable arrangements.”

- (3) After subsection (1) insert—
- “(1A) This section also applies where a person (a “client”) to whom a person is providing (or has provided) services in connection with arrangements or proposed arrangements receives prescribed information under section 312ZA relating to the reference number allocated to—
- (a) the arrangements or proposed arrangements, or
  - (b) any arrangements substantially the same as the arrangements or proposed arrangements.”
- (4) In subsection (4), for “notifiable arrangements or a notifiable proposal” substitute “arrangements or a proposal”.
- 9 (1) Section 312B (duty of client to provide information to promoter) is amended as follows.
- (2) In the heading, omit “to promoter”.
- (3) For subsection (1) substitute—
- “(1) This section applies where a person (“the client”) has been provided with information under section 312(2) or 312ZA(2) (prescribed information about reference number).”
- (4) In subsection (2), for “promoter” substitute “person who provided the information”.
- 10 (1) Section 313 (duty of parties to notifiable arrangements to notify Board of number etc) is amended as follows.
- (2) For the heading substitute “Duty of parties to notify HMRC of reference number etc”.
- (3) In subsection (1), omit “notifiable”.
- (4) In subsection (2), for “any notifiable arrangements” substitute “arrangements of any description”.
- (5) In subsection (5), omit “notifiable”.
- 11 (1) Section 313ZA (duty to provide details of clients) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the promoter is subject to the requirement under section 312(2) to provide to the client prescribed information relating to the reference number allocated to—
    - (i) the arrangements, or
    - (ii) any arrangements substantially the same as the arrangements”; or
  - (b) the promoter has failed to comply with section 308(1) or (3) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to—
    - (i) the notifiable arrangements, or
    - (ii) any arrangements substantially the same as the arrangements”.

- (3) After subsection (1) insert –
- “(1A) This section also applies where –
- (a) a person (“the provider”) is providing (or has provided) services to another person (“the client”) in connection with arrangements or proposed arrangements, and
  - (b) the provider is subject to the requirement under section 312ZA(2) to provide to the client prescribed information relating to the reference number allocated to –
    - (i) the arrangements or proposed arrangements, or
    - (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
- (4) Omit subsection (2).
- (5) In subsection (3), after “promoter” insert “or (as the case may be) provider”.
- (6) For subsection (4) substitute –
- “(4) In subsection (3) “the relevant period” means –
- (a) in a case within subsection (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that subsection;
  - (b) in a case within subsection (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that subsection.”
- (7) After subsection (5) insert –
- “(6) The provider need not comply with subsection (3) in relation to any arrangements at any time after HMRC have given notice under section 312ZA(4) in relation to the arrangements.”
- 12 (1) Section 313ZB (enquiry following disclosure of client details) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute –
- “(a) a person (“the service provider”) is providing or has provided services to another person (“the client”) in connection with arrangements or proposed arrangements,
- (aa) the service provider has provided HMRC with information in relation to the client under section 313ZA(3), and”.
- (3) In subsection (2), for “promoter”, in both places, substitute “service provider”.
- (4) In subsection (3), for “promoter” substitute “service provider”.
- 13 (1) Section 313ZC (duty of employer to notify HMRC of details of employees etc) is amended as follows.
- (2) For subsection (2) substitute –
- “(2) Condition A is that –
- (a) a person who is a promoter in relation to notifiable arrangements or a notifiable proposal is providing (or has provided) services in connection with the arrangements or proposal to a person (“the client”), or

- (b) a person is providing (or has provided) services in connection with arrangements or a proposal to a person (“the client”).”
- (3) In subsection (3), after “312(2)” insert “or 312ZA(2)”.
- (4) In subsection (4), omit “notifiable”, in both places.
- (5) In subsection (6) –
- (a) omit “notifiable”, in both places;
  - (b) after “312(6)” insert “, 312ZA(4)”.
- 14 In section 316 (information to be provided in form and manner specified by HMRC), in subsection (2) –
- (a) after “310C,” insert “311C,”;
  - (b) after “312(2),” insert “312ZA(2),”.
- 15 In section 316A (duty to provide additional information), in subsections (1) and (2), after “312(2)” insert “, 312ZA(2)”.
- 16 (1) Section 316C (publication by HMRC) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) HMRC may publish information about –
- (a) any arrangements, or proposed arrangements, to which a reference number is allocated under section 311;
  - (b) any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;
  - (c) where the reference number is allocated in a case within section 311(3), any other person who is, or has been, involved in the supply of the arrangements or proposed arrangements.”
- (3) In subsection (2) –
- (a) in paragraph (a) –
    - (i) after “(1)(b)” insert “or (c)”;
    - (ii) for “308, 309 or 310” substitute “any provision of this Part”;
  - (b) for paragraph (b) substitute –
 

“(b) any ruling of a court or tribunal relating to –

    - (i) arrangements within subsection (1)(a);
    - (ii) a person within subsection (1)(b), in that person’s capacity as a promoter in relation to the arrangements or proposal;
    - (iii) a person within subsection (1)(c), in that person’s capacity in relation to the supply of the arrangements or proposed arrangements;”;
  - (c) in paragraph (c), omit “notifiable”;
  - (d) in paragraph (e), after “(1)(b)” insert “or (c)”.
- (4) In subsection (4), omit “notifiable”.
- (5) In subsection (5) –
- (a) for “who is a promoter within subsection (1)(b)” substitute “within subsection (1)(b) or (c)”;

- (b) for “as a promoter” substitute “as a promoter or a person involved in the supply of arrangements or proposed arrangements”.
- (6) In subsection (6), for “a promoter within subsection (1)(b)” substitute “a person within subsection (1)(b) or (c)”.
- (7) After subsection (6) insert –
- “(6A) Where the reference number is allocated in a case within section 311(3) –
- (a) information that identifies a person within subsection (1)(b) or (c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;
- (b) no information that identifies a person within subsection (1)(b) or (c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (6B) In determining a period of one year for the purposes of subsection (6A)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal.”
- 17 In section 316D (section 316C: subsequent judicial rulings), in subsection (1)(a), omit “notifiable”, in both places.
- 18 In section 318(1) (interpretation of Part 7), for the definition of “reference number” substitute –
- ““reference number” means a reference number allocated under section 311;”.

## PART 2

### AMENDMENTS OF SCHEDULE 17 TO F(No.2)A 2017

- 19 Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) is amended as follows.
- 20 Before Part 1 insert –

#### “PART A1

##### INTRODUCTION

- A1 (1) This Schedule makes provision about the disclosure of information in relation to arrangements, or proposed arrangements, that enable, or might be expected to enable, a person to obtain a tax advantage in relation to VAT or another indirect tax.
- (2) Among other things, this Schedule –
- (a) imposes duties to provide information to HMRC (and others);
- (b) allows HMRC to allocate reference numbers in relation to arrangements and proposed arrangements (in cases where

- the disclosure duties have been complied with and in other cases);
- (c) makes provision about publication of information about arrangements and proposed arrangements, and persons involved in their supply;
- (d) makes provision about penalties.”
- 21 In paragraph 10(1) (meaning of “makes a firm approach”), omit “notifiable”.
- 22 After paragraph 21 insert –

*Notice of potential allocation of reference number: arrangements and proposals suspected of being notifiable*

- 21A (1) This paragraph applies where –
- (a) HMRC have become aware that –
    - (i) a transaction forming part of arrangements has been entered into,
    - (ii) a firm approach has been made to a person in relation to a proposal for arrangements, with a view to making the proposal available for implementation, or
    - (iii) a proposal for arrangements is made available for implementation, and
  - (b) HMRC have reasonable grounds for suspecting that the arrangements are notifiable, or the proposal is notifiable.
- (2) HMRC may issue a notice to a person explaining that, unless the person is able to satisfy HMRC, before the end of the notice period, that the arrangements are not notifiable or (as the case may be) the proposal is not notifiable, HMRC may allocate a reference number to the arrangements or (in the case of a proposal) the proposed arrangements.
- (3) But HMRC may not issue a notice under this paragraph before the end of the period of 15 days beginning with the day on which they first become aware that the condition in paragraph (a)(i), (ii) or (iii) is met.
- (4) Where HMRC reasonably suspect a person to be a promoter in relation to the arrangements or proposal, a notice under this paragraph –
- (a) must be issued to that person, and
  - (b) may also be issued to any other person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.
- (5) In any other case, a notice issued under this paragraph may be issued to any person who HMRC reasonably suspect to be involved in the supply of the arrangements or proposed arrangements.”

23 For paragraph 22 (and the italic heading before it) substitute –

*“Allocation of reference number to arrangements*

- 22 (1) This paragraph applies in –
- (a) a sub-paragraph (2) case, or
  - (b) a sub-paragraph (3) case.
- (2) A “sub-paragraph (2) case” is a case where a person complies, or purports to comply, with paragraph 11(1), 12(1), 17(2) or 18(2) in relation to a notifiable proposal or notifiable arrangements.
- (3) A “sub-paragraph (3) case” is a case where –
- (a) notice in relation to arrangements or a proposal has been given in accordance with paragraph 21A (notice of potential allocation of reference number),
  - (b) the notice period has expired, and
  - (c) the person to whom the notice was given has failed to satisfy HMRC, before the expiry of the notice period, that the arrangements are not notifiable or (as the case may be) that the proposal is not notifiable.
- (4) “The notice period” means –
- (a) the period of 30 days beginning with the day on which the notice under paragraph 21A is issued, or
  - (b) such longer period as HMRC may direct.
- (5) HMRC may allocate a reference number to the arrangements or, in the case of a proposal, the proposed arrangements, subject to sub-paragraph (6).
- (6) HMRC may not allocate a reference number to arrangements or proposed arrangements after the time limit for doing so.
- (7) The time limit for allocating a reference number is –
- (a) in a sub-paragraph (2) case, the end of the period of 90 days beginning with the compliance, or purported compliance, with paragraph 11(1), 12(1), 17(2) or 18(2), as the case may be;
  - (b) in a sub-paragraph (3) case, the end of the period of one year beginning with the day after the end of the notice period (see sub-paragraph (4)).
- (8) HMRC may at any time withdraw a reference number allocated to arrangements in a sub-paragraph (3) case.
- (9) The allocation of a reference number to arrangements or proposed arrangements is not to be regarded as constituting an indication by HMRC that the arrangements could as a matter of law result in the obtaining by any person of a tax advantage.

*Duty of HMRC to notify persons of reference number*

- 22A (1) If a reference number is allocated in a case within paragraph 22(2), HMRC must notify the following of the number –



- (a) the person who has complied, or purported to comply, with paragraph 11(1), 12(1), 17(2) or 18(2), and
  - (b) where the person has complied, or purported to comply, with paragraph 11(1) or 12(1), any other person –
    - (i) who is a promoter in relation to the proposal (or arrangements implementing it) or the arrangements or (a proposal implemented by them), and
    - (ii) whose identity and address have been notified to HMRC by the person who complied, or purported to comply, with paragraph 11(1) or 12(1).
- (2) If a reference number is allocated in a case within paragraph 22(3), HMRC must notify any person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements, or the proposed arrangements, of the number.

*Right of appeal: paragraph 22(3) case*

- 22B (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).
- (2) A person who has been notified of the reference number may appeal to the tribunal against its allocation.
  - (3) An appeal under this paragraph may be brought only on the following grounds –
    - (a) that, in issuing the notice under paragraph 21A as a result of which the reference number was allocated, HMRC did not act in accordance with that paragraph;
    - (b) that, in allocating the reference number, HMRC did not act in accordance with paragraph 22;
    - (c) that the arrangements are not in fact notifiable arrangements or, in the case of proposed arrangements, that the proposal for the arrangements is not in fact a notifiable proposal.
  - (4) Notice of appeal under this paragraph must be given to the tribunal in writing before the end of the period of 30 days beginning with the day on which the person is notified of the number by HMRC.
  - (5) Notice may be given after that time if the tribunal give permission.
  - (6) The notice of appeal must specify the grounds of appeal.
  - (7) On an appeal under this paragraph, the tribunal may affirm or cancel HMRC's decision.
  - (8) If the tribunal cancel HMRC's decision, HMRC must withdraw the reference number.
  - (9) Bringing an appeal under this paragraph does not prevent –
    - (a) a power conferred by this Part of this Schedule from being exercised, or

- (b) a duty imposed by this Part of this Schedule from continuing to apply.

*Duty to provide further information requested by HMRC: paragraph 22(3) case*

- 22C (1) This paragraph applies where HMRC have allocated a reference number to arrangements or proposed arrangements in a case within paragraph 22(3).
- (2) HMRC may require any person who HMRC reasonably suspect to be, or to have been, involved in the supply of the arrangements or the proposed arrangements to provide –
- (a) specified information about the arrangements or proposed arrangements;
- (b) documents relating to the arrangements or proposed arrangements.
- (3) HMRC may require information or documents only if they have reasonable grounds for suspecting that the information or documents will assist them in considering the arrangements or proposed arrangements.
- (4) Where HMRC impose a requirement on a person under sub-paragraph (2), the person must comply with the requirement before the end of –
- (a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or
- (b) such longer period as HMRC may direct.”
- 24 In the italic heading before paragraph 23, at the end insert “: paragraph 22(2) case”.
- 25 (1) Paragraph 23 (duty of promoter to notify client of reference number) is amended as follows.
- (2) In sub-paragraph (2) –
- (a) after “any reference number” insert “allocated in a case within paragraph 22(2)”;
- (b) for “one reference number” substitute “one such reference number”.
- 26 After paragraph 23 insert –

*“Duty to notify client of reference number: paragraph 22(3) case*

- 23A (1) This paragraph applies where a person is providing (or has provided) services to any person (“the client”) in connection with arrangements or proposed arrangements.
- (2) The person must, before the end of the period of 30 days beginning with the relevant date, provide the client with prescribed information relating to any reference number allocated in a case within paragraph 22(3) (or, if more than one, any one such reference number) that has been notified to the person (whether by HMRC or any other person) in relation to –
- (a) the arrangements or proposed arrangements, or

- (b) any arrangements substantially the same as the arrangements or proposed arrangements (whether involving the same or different parties).
  - (3) “The relevant date” means the date on which the person has been notified of the reference number.
  - (4) HMRC may give notice that, in relation to arrangements or proposed arrangements specified in the notice, no person is under the duty under sub-paragraph (2) after the date specified in the notice.”
- 27 (1) Paragraph 24 (duty of client to notify parties of reference number) is amended as follows.
- (2) In sub-paragraph (1)–
    - (a) omit “who is a promoter in relation to notifiable arrangements or a notifiable proposal”;
    - (b) for “the arrangements or proposal” substitute “arrangements or a proposal”.
  - (3) For sub-paragraph (2) substitute–
    - “(2) Sub-paragraph (3) applies where–
      - (a) the client receives prescribed information under paragraph 23 relating to the reference number allocated to–
        - (i) the arrangements or proposed arrangements, or
        - (ii) any arrangements substantially the same as the arrangements or proposed arrangements; or
      - (b) the client receives prescribed information under paragraph 23A relating to the reference number allocated to–
        - (i) the arrangements or proposed arrangements, or
        - (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
  - (4) In sub-paragraph (4)(b), for “by the promoter under paragraph 23” substitute “under paragraph 23 or (as the case may be) paragraph 23A”.
  - (5) In sub-paragraph (5), for “notifiable arrangements or a notifiable proposal” substitute “arrangements or a proposal”.
- 28 In the italic heading before paragraph 25, omit “to promoter”.
- 29 (1) Paragraph 25 (duty of client to provide information to promoter) is amended as follows.
- (2) For sub-paragraph (1) substitute–
    - “(1) This paragraph applies where a person (“the client”) has been provided with information under paragraph 23(2) or 23A(2) (prescribed information about reference number).”
  - (3) In sub-paragraph (2), for “promoter” substitute “person who provided the information”.

- 30 For the italic heading before paragraph 26 substitute “Duty of parties to notify HMRC of reference number etc”.
- 31 (1) Paragraph 26 (duty of parties to notifiable arrangements to notify HMRC of number etc) is amended as follows.
- (2) In sub-paragraph (1), omit “notifiable”.
- (3) In sub-paragraph (1)(a), after “23” insert “, 23A”.
- (4) In sub-paragraph (2), for “any notifiable arrangements” substitute “arrangements of any description”.
- (5) In sub-paragraph (5), omit “notifiable”.
- 32 (1) Paragraph 27 (duty to provide details of clients) is amended as follows.
- (2) In sub-paragraph (1), for paragraphs (a) and (b) substitute –
- “*(a)* the promoter is subject to the requirement under paragraph 23(2) to provide to the client prescribed information relating to the reference number allocated to –
- (i) the arrangements, or
- (ii) any arrangements substantially the same as the arrangements”; or
- (b)* the promoter has failed to comply with paragraph 11(1) or 12(1) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to that requirement if a reference number had been allocated to –
- (i) the notifiable arrangements, or
- (ii) any arrangements substantially the same as the arrangements.”
- (3) After sub-paragraph (1) insert –
- “(1A) This paragraph also applies where –
- (a) a person (“the provider”) is providing (or has provided) services to another person (“the client”) in connection with arrangements or proposed arrangements, and
- (b) the provider is subject to the requirement under paragraph 23A(2) to provide to the client prescribed information relating to the reference number allocated to –
- (i) the arrangements or proposed arrangements, or
- (ii) any arrangements substantially the same as the arrangements or proposed arrangements.”
- (4) Omit sub-paragraph (2).
- (5) In sub-paragraph (3), after “promoter” insert “or (as the case may be) provider”.
- (6) For sub-paragraph (4) substitute –
- “(4) In sub-paragraph (3) “the relevant period” means –
- (a) in a case within sub-paragraph (1), such period as is prescribed and is a period during which the promoter is or would be subject to the requirement mentioned in that sub-paragraph;

- (b) in a case within sub-paragraph (1A), such period as is prescribed and is a period during which the provider is or would be subject to the requirement mentioned in that sub-paragraph.”
- (7) After sub-paragraph (5) insert –
- “(6) The provider need not comply with sub-paragraph (3) in relation to any arrangements at any time after HMRC have given notice under paragraph 23A(4) in relation to the arrangements.”
- 33 (1) Paragraph 28 (enquiry following disclosure of client details) is amended as follows.
- (2) In sub-paragraph (1), for paragraph (a) substitute –
- “(a) a person (“the service provider”) is providing or has provided services to another person (“the client”) in connection with arrangements or proposed arrangements,
- (aa) the service provider has provided HMRC with information in relation to the client under paragraph 27(3), and”.
- (3) In sub-paragraph (2), for “promoter”, in both places, substitute “service provider”.
- (4) In sub-paragraph (3), for “promoter” substitute “service provider”.
- 34 In paragraph 33 (duty to provide additional information), in sub-paragraphs (1) and (2), after “23(2)” insert “, 23A(2)”.
- 35 In paragraph 34 (information to be provided in form and manner specified by HMRC), in sub-paragraph (2) –
- (a) after “21(3),” insert “22C,”;
- (b) after “23(2),” insert “23A(2),”.
- 36 (1) Paragraph 36 (publication by HMRC) is amended as follows.
- (2) For sub-paragraph (1) substitute –
- “(1) HMRC may publish information about –
- (a) any arrangements, or proposed arrangements, to which a reference number is allocated under paragraph 22;
- (b) any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;
- (c) where the reference number is allocated in a case within paragraph 22(3), any other person who is, or has been, involved in the supply of the arrangements or proposed arrangements.”
- (3) In sub-paragraph (2) –
- (a) in paragraph (a) –
- (i) after “(1)(b)” insert “or (c)”;
- (ii) for “11, 12, 17 or 18” substitute “any provision of this Part”;
- (b) for paragraph (b) substitute –
- “(b) any ruling of a court or tribunal relating to –
- (i) arrangements within sub-paragraph (1)(a);

- (ii) a person within sub-paragraph (1)(b), in that person’s capacity as a promoter in relation to the arrangements or proposal;
  - (iii) a person within sub-paragraph (1)(c), in that person’s capacity in relation to the supply of the arrangements or proposed arrangements;”;
  - (c) in paragraph (c), omit “notifiable”;
  - (d) in paragraph (d), after “(1)(b)” insert “or (c)”.
- (4) In sub-paragraph (4), omit “notifiable”.
- (5) In sub-paragraph (5)–
- (a) for “who is a promoter within sub-paragraph (1)(b)” substitute “within sub-paragraph (1)(b) or (c)”;
  - (b) for “as a promoter” substitute “as a promoter or a person involved in the supply of arrangements or proposed arrangements”.
- (6) In sub-paragraph (6), for “a promoter within sub-paragraph (1)(b)” substitute “a person within sub-paragraph (1)(b) or (c)”.
- (7) After sub-paragraph (6) insert–
- “(7) Where the reference number is allocated in a case within paragraph 22(3)–
  - (a) information that identifies a person within sub-paragraph (1)(b) or (c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;
  - (b) no information that identifies a person within sub-paragraph (1)(b) or (c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (8) In determining a period of one year for the purposes of sub-paragraph (6A)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal.”
- 37 In paragraph 37 (paragraph 36: subsequent judicial rulings), in sub-paragraph (1)(a), omit “notifiable”, in both places.
- 38 (1) Paragraph 39 (penalty for failure to comply with duties under Part 1 of Schedule) is amended as follows.
- (2) In sub-paragraph (1)(a)(i), for “or 19” substitute “, 19 or 22C”.
- (3) In sub-paragraph (2)–
- (a) after paragraph (f) insert–
    - “(fa) paragraph 22C (duty to provide further information requested by HMRC: paragraph 22(3) case);”;
  - (b) after paragraph (g) insert–
    - “(ga) paragraph 23A(2) (duty to notify client of reference number: paragraph 22(3) case)”.

(4) In sub-paragraph (4), in the table, at the end insert –

“A failure to comply with paragraph 22C	The first day after the end of the period before the end of which the person must comply with paragraph 22C”
---	--

39 In paragraph 40 (penalties: supplementary), in sub-paragraph (2), after paragraph (a) (but before the “and” immediately after it) insert –

“(aa) in the case of a penalty for a person’s failure to comply with paragraph 22C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal.”.

40 In paragraph 57(1) (interpretation of Schedule), for the definition of “reference number” substitute –

““reference number” means a reference number allocated under paragraph 22;”.

### PART 3

#### OTHER AMENDMENTS

41 (1) Section 98C of TMA 1970 (notification under Part 7 of FA 2004: penalties) is amended as follows.

(2) In subsection (1)(a)(i), for “or (ca)” substitute “, (ca) or (cc)”.

(3) In subsection (2) –

(a) after paragraph (cb) insert –

“(cc) section 311C (duty to provide further information requested by HMRC: section 311(3) case);”;

(b) after paragraph (d) insert –

“(dza) section 312ZA(2) (duty to notify client of reference number: section 311(3) case);”.

(4) In subsection (2ZA), in the table, at the end insert –

“A failure to comply with section 311C	The first day after the end of the period before the end of which the person must comply with section 311C”
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(5) In subsection (2ZB), after paragraph (a) (but before the “and” immediately after it) insert –

“(aa) in the case of a penalty for a person’s failure to comply with section 311C, to the amount of any fees received, or likely to have been received, by the person in connection with the arrangements, the proposed arrangements or the proposal.”.

42 (1) Chapter 3 of Part 4 of FA 2014 (accelerated payment) is amended as follows.

- (2) In section 219 (circumstances in which an accelerated payment notice may be given) –
- (a) in subsection (5)(a), omit “notifiable”;
  - (b) in subsection (5)(b), omit “notifiable”, in each place;
  - (c) in subsection (5)(c) –
    - (i) for “the promoter” substitute “a person”;
    - (ii) after “312(2)” insert “or 312ZA(2)”;
    - (iii) omit “notifiable”;
  - (d) in subsection (6) –
    - (i) omit “notifiable”;
    - (ii) after “312(6)” insert “or 312ZA(4)”;
    - (iii) for “promoters” substitute “persons”.
- (3) In section 227 (withdrawal, modification or suspension of accelerated payment notice), in subsection (5)(b) –
- (a) after “312(6)” insert “or 312ZA(4)”;
  - (b) for “promoters” substitute “persons”;
  - (c) after “312(2)” insert “or (as the case may be) 312ZA(2)”.

## SCHEDULE 3

Section 3

## THE GAAR AND PARTNERSHIPS

## PART 1

## AMENDMENTS TO PART 5 OF FA 2013

- 1 In section 209 of FA 2013 (counteracting tax advantages), after subsection (6) insert –
- “(6A) The procedural requirements mentioned in subsection (6)(a) include any procedural requirements which apply under or by virtue of Schedule 43D (which makes provision in relation to partnerships).”
- 2 After Schedule 43C of that Act insert –

## “SCHEDULE 43D

Section 209

## THE GAAR AND PARTNERSHIPS

## PART 1

## GENERAL

*Introductory*

- 1 (1) This Schedule makes provision about the operation of the general anti-abuse rule in relation to partnerships.
- (2) This Schedule applies in relation to partnerships in respect of which –
- (a) a return is required under section 12AA of TMA 1970 (a “section 12AA partnership return”), or



- (b) a return is required by regulations under paragraph 10 of Schedule A1 to TMA 1970 (a “Schedule A1 partnership return”).

*“The responsible partner”*

- 2 In this Schedule, “the responsible partner” means –
- (a) in relation to a partnership in respect of which a section 12AA partnership return is required, the person required to deliver the return or their successor (within the meaning of section 12AA(11) of TMA 1970);
- (b) in relation to a partnership in respect of which a Schedule A1 partnership return is required, the nominated partner (within the meaning of paragraph 5 of Schedule A1 to TMA 1970).

*Partnership return made on basis that tax advantage arises*

- 3 (1) For the purposes of this Schedule a partnership return is regarded as made on the basis that a particular tax advantage arises (or might arise) to a partner from particular arrangements if –
- (a) it is made on the basis that an increase or reduction in one or more of the amounts mentioned in section 12AB(1) of TMA 1970 (amounts in the partnership statement in a partnership return) results (or might result) from those arrangements, and
- (b) that increase or reduction results (or might result) in that tax advantage for the partner.
- (2) In sub-paragraph (1) and in the following provisions of this Schedule “partnership return” means a section 12AA partnership return or a Schedule A1 partnership return.

PART 2

PROTECTIVE GAAR NOTICES

*Power to give protective GAAR notice to responsible partner*

- 4 (1) If an officer of Revenue and Customs considers, in relation to a partnership –
- (a) that a partnership return has been made on the basis that a tax advantage might have arisen to one or more partners from tax arrangements that are abusive, and
- (b) that, on the assumption that the advantage does arise from tax arrangements that are abusive, it ought to be counteracted under section 209,
- the officer may give a written notice to that effect (a “protective GAAR notice”) to the responsible partner.
- (2) Subsections (2) to (9) of section 209AA apply in relation to a protective GAAR notice given under this paragraph as they apply in relation to a protective GAAR notice given under that section, subject to the modifications in sub-paragraph (3).

- (3) Section 209AA(3) is to be read as if—
  - (a) for “a return made by the person, and” there were substituted “the partnership return”, and
  - (b) paragraph (b) were omitted.
- (4) Section 209AC (definitions) has effect for the purposes of subsections (2) to (9) of section 209AA as those provisions apply by virtue of sub-paragraph (2), as if, in subsection (1)—
  - (a) the definition of “GAAR procedural requirements” were a reference to procedural requirements that have effect under or by virtue of this Schedule, and
  - (b) in the definition of “lesser adjustments” the reference to the Schedule 43 or 43A notice were a reference to the notice given under paragraph 9 or paragraph 17 of this Schedule (as the case may be).

*Effect of giving a protective GAAR notice under paragraph 4*

- 5 Where an officer gives a protective GAAR notice under paragraph 4 in respect of a tax advantage, this Part of this Act has effect in relation to the tax advantage with the modifications in paragraphs 6 and 7.

*Modifications to section 209*

- 6 (1) Section 209 (counteracting the tax advantage) has effect with the following modifications.
- (2) Subsection (5) is to be read as if for “the person to whom the tax advantage would arise” there were substituted “anyone else”.
- (3) Subsection (8) is to be read as if—
  - (a) in the words before paragraph (a), for the words from “, the taxpayer” to “which”, there were substituted “(as applied by Schedule 43D), no GAAR-related adjustments may be made in the period (“the closed period”) which”;
  - (b) in paragraph (a), for “that Schedule” there were substituted “Schedule 43”;
  - (c) in paragraph (b), for “the taxpayer” there were substituted “the responsible partner”.
- (4) Subsection (9) is to be read as if—
  - (a) in the words before paragraph (a)—
    - (i) for “a person” there were substituted “the responsible partner”,
    - (ii) for “43A” there were substituted “43D”, and
    - (iii) for “the person must not make any GAAR-related adjustments” there were substituted “no GAAR-related adjustments may be made”;
  - (b) in paragraph (b)(i)—
    - (i) for “the person” there were substituted “the responsible partner”;
    - (ii) after “43A” there were inserted “(as applied by Schedule 43D)”.

- (5) Subsection (10)(a) is to be read as if for “paragraph 3 of Schedule 43” there were substituted “paragraph 9 of Schedule 43D”.

*Modifications to section 210*

- 7 Section 210 (consequential relieving adjustments) has effect as if—
- (a) in subsection (1)(b), for “the taxpayer” there were substituted “the responsible partner”;
  - (b) subsection (10) were omitted.

*Notices given in relation to partnership under Part 3 or 4 of this Schedule*

- 8 (1) This paragraph applies in the case of any particular adjustments in respect of a particular period or matter (“the adjustments concerned”) if—
- (a) a person is given a notice under paragraph 9 (notice of proposed counteraction) or paragraph 17 (pooling notice or notice of binding) that specifies the adjustments concerned,
  - (b) that notice is given within the relevant time limit applicable to the adjustments concerned, and
  - (c) the adjustments concerned have not been specified in a protective GAAR notice under paragraph 4 given before the time at which the notice within paragraph (a) is given.
- (2) Subsections (2) to (5) of section 209AB apply for the purposes of this paragraph, subject to the modifications in sub-paragraphs (3) and (4).
- (3) References in subsections (2) to (5) of section 209AB to the Schedule 43 or 43A notice are to be read as if they were references to the notice within sub-paragraph (1)(a).
- (4) Section 209AB(2)(b) is to be read as if for “a return made by the person” there were substituted “the partnership return”.
- (5) Section 209AC (definitions) has effect for the purposes of subsections (2) to (5) of section 209AB as those provisions apply by virtue of sub-paragraph (2), as if, in subsection (1)—
- (a) the definition of “GAAR procedural requirements” were a reference to procedural requirements that have effect under or by virtue of this Schedule, and
  - (b) in the definition of “lesser adjustments” the reference to the Schedule 43 or 43A notice were a reference to the notice within sub-paragraph (1)(a).

PART 3

NOTICES OF PROPOSED COUNTERACTION

*Power to give notice of proposed counteraction to responsible partner*

- 9 (1) If a designated HMRC officer considers that, in relation to a partnership—

- (a) a partnership return has been made on the basis that a tax advantage has arisen to one or more partners from tax arrangements that are abusive, and
  - (b) the tax advantage ought to be counteracted under section 209,
- the officer may give the responsible partner a written notice under this paragraph.
- (2) A partner who appears to a designated HMRC officer to fall within sub-paragraph (1)(a) is a “relevant partner” for the purposes of this Part of this Schedule.
  - (3) The notice must –
    - (a) specify each relevant partner, the arrangements and the tax advantage,
    - (b) explain why the officer considers that a tax advantage has arisen to each relevant partner from tax arrangements that are abusive,
    - (c) set out the counteraction that the officer considers ought to be taken,
    - (d) inform the responsible partner of the period for making representations under paragraph 4 of Schedule 43 as modified by this Schedule, and
    - (e) explain the effect of –
      - (i) paragraphs 5 and 6 of Schedule 43, and
      - (ii) sections 209(8) and 212A,
 as modified by this Schedule.
  - (4) The notice may set out steps that the responsible partner may take to avoid the proposed counteraction.
  - (5) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a partner specified in the notice, the officer must amend the notice accordingly.
  - (6) Where a designated HMRC officer so amends a notice –
    - (a) it is treated as having been given in the amended form, and
    - (b) the officer may take such other steps as the officer considers appropriate.

*Effect of giving a notice under paragraph 9*

- 10 Where an officer gives a notice under paragraph 9 in respect of a tax advantage, this Part of this Act has effect in relation to the tax advantage –
  - (a) in a case where a notice under paragraph 4 has been given to the responsible partner in respect of the tax advantage, with the modifications in paragraphs 13 to 15, and
  - (b) in any other case, with the modifications in paragraphs 11 to 15.

*Modifications to section 209*

- 11 (1) Section 209 (counteracting the tax advantage) has effect with the following modifications.
- (2) Subsection (5) is to be read as if for “the person to whom the tax advantage would arise” there were substituted “anyone else”.
- (3) Subsection (8) is to be read as if—
- (a) in the words before paragraph (a), for the words from “, the taxpayer” to “which”, there were substituted “(as applied by Schedule 43D), no GAAR-related adjustments may be made in the period (“the closed period”) which”;
  - (b) in paragraph (a), for “that Schedule” there were substituted “Schedule 43”;
  - (c) in paragraph (b), for “the taxpayer” there were substituted “the responsible partner”.
- (4) Subsection (10)(a) is to be read as if for “paragraph 3 of Schedule 43” there were substituted “paragraph 9 of Schedule 43D”.

*Modifications to section 210*

- 12 Section 210 (consequential relieving adjustments) has effect as if—
- (a) in subsection (1)(b), for “the taxpayer” there were substituted “the responsible partner”;
  - (b) subsection (10) were omitted.

*Modifications to section 212A*

- 13 (1) Section 212A (penalty) has effect with the following modifications.
- (2) Subsection (1) is to be read as if—
- (a) for the words before paragraph (a), there were substituted “This section applies if—”;
  - (b) in paragraph (a), the for “P” there were substituted “the responsible partner”;
  - (c) in paragraph (a), for “from particular tax arrangements” there were substituted “to one or more relevant partners”;
  - (d) paragraphs (b) and (c) were omitted.
- (3) Section 212A is to be read as if, after subsection (1), there were inserted—
- (1A) Each relevant partner is liable to pay a penalty.
  - (1B) The penalty for each relevant partner is 60% of the value of the counteracted tax advantage.
  - (1C) The value of the counteracted tax advantage is to be calculated separately for the purposes of each relevant partner’s penalty.”
- (4) Section 212A is to be read as if subsections (2), (4) and (5) were omitted.

*Modifications to Schedule 43*

- 14 (1) Schedule 43 (procedural requirements) has effect with the following modifications.
- (2) Schedule 43 is to be read as if paragraphs 1A, 3 and 4A(6) were omitted.
- (3) References to a notice given under paragraph 3 of Schedule 43 are to be read as if they were to a notice given under paragraph 9 of this Schedule.
- (4) In paragraphs 4 and 6 to 12, references to the taxpayer are to be read as if they were to the responsible partner.
- (5) The heading before paragraph 4A is to be read as if “by taxpayer” were omitted.
- (6) In paragraph 4A –
  - (a) sub-paragraph (1) is to be read as if –
    - (i) “the taxpayer takes” were omitted, and
    - (ii) after “action” there were inserted “is taken”;
  - (b) sub-paragraph (2) is to be read as if –
    - (i) “the taxpayer takes” were omitted, and
    - (ii) after “and (4)” there were inserted “are taken”;
  - (c) sub-paragraph (3) is to be read as if –
    - (i) in paragraph (a), for “the taxpayer” there were substituted “the responsible partner”, and
    - (ii) in paragraph (b), for the words from the beginning to “the taxpayer” in the second place it occurs, there were substituted “each relevant partner”;
  - (d) sub-paragraph (4) is to be read as if –
    - (i) in the words before paragraph (a) for “the taxpayer” there were substituted “the responsible partner”,
    - (ii) in paragraph (a), for “taxpayer has taken the first step” substitute “first step has been taken”, and
    - (iii) paragraph (b) were omitted (and the “and” before it were omitted);
  - (e) sub-paragraph (5) is to be read as if –
    - (i) for “the taxpayer”, in the first place it occurs, there were substituted “a relevant partner”,
    - (ii) “the taxpayer had not taken” were omitted,
    - (iii) after “action” there were inserted “had not been taken”, and
    - (iv) for “the taxpayer”, in the last place it occurs, there were substituted “the relevant partner”;
  - (f) sub-paragraphs (7) and (8) are to be read as if, for “the taxpayer”, in each place it occurs, there were substituted “the responsible partner”;
  - (g) sub-paragraph (9) is to be read as if paragraphs (c) to (e) were omitted.
- (7) Paragraph 4B is to be read as if –

- (a) “the taxpayer does not take” were omitted, and
- (b) after “4A)” there were inserted “has not been taken”.

*Modifications to Schedule 43C*

- 15 (1) Schedule 43C (penalty under section 212A) has effect with the following modifications.
- (2) Paragraph 2(1) is to be read as if for “section 212A(1)(c)” there were substituted “section 212A(1)”.
  - (3) Paragraph 2(5) is to be read as if for “the person’s liability” there were substituted “a relevant partner’s liability”.
  - (4) Paragraph 3(1) is to be read as if “mentioned in section 212A(1)(b) (“the tax advantage”)” were omitted.
  - (5) Paragraph 5(2)(a) is to be read as if, at the end, there were inserted “and the responsible partner”.
  - (6) Paragraph 9(1) is to be read as if for “A person” there were substituted “The responsible partner”.

*Notices may be given on assumption that tax advantage does arise*

- 16 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen.
- (2) Accordingly, any notice given by a designated HMRC officer under paragraph 9 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

PART 4

POOLING NOTICES AND NOTICES OF BINDING

*Power to give pooling notice or notice of binding to responsible partner*

- 17 (1) If a designated HMRC officer –
- (a) has the power to give to a person (“R”) a notice in accordance with paragraph 1(3) or 2(2) of Schedule 43A in respect of a tax advantage arising from tax arrangements (“R’s arrangements”), and
  - (b) considers that a partnership return has been made on the basis that the tax advantage has arisen to R, or to R and one or more of R’s partners, from R’s arrangements,
- the officer may give the pooling notice or notice of binding to the responsible partner under this paragraph.
- (2) A partner who appears to a designated HMRC officer to fall within sub-paragraph (1)(b) is a “relevant partner” for the purposes of this Part of this Schedule.
- (3) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a

partner specified in the notice, the officer must amend the notice accordingly.

- (4) Where a designated HMRC officer so amends the notice –
- (a) it is treated as having been given in the amended form, and
  - (b) the officer may take such other steps as the officer considers appropriate.

*Effect of giving notice under paragraph 17*

- 18 Where a pooling notice or notice of binding is given to the responsible partner under paragraph 17, this Part of this Act has effect in relation to the tax advantage –
- (a) in a case where a notice under paragraph 4 has been given to the responsible partner in respect of the tax advantage, with the modifications in paragraphs 21 to 23, and
  - (b) in any other case, with the modifications in paragraphs 19 to 23.

*Modifications to section 209*

- 19 (1) Section 209 (counteracting the tax advantage) has effect with the following modifications.
- (2) Subsection (5) is to be read as if for “the person to whom the tax advantage would arise” there were substituted “anyone else”.
- (3) Subsection (9) is to be read as if –
- (a) in the words before paragraph (a) –
    - (i) for “a person” there were substituted “the responsible partner”,
    - (ii) for “43A” there were substituted “43D”, and
    - (iii) for “the person must not make any GAAR-related adjustments” there were substituted “no GAAR-related adjustments may be made”;
  - (b) in paragraph (b)(i) –
    - (i) for “the person” there were substituted “the responsible partner”;
    - (ii) after “43A” there were inserted “(as applied by Schedule 43D)”.

*Modifications to section 210*

- 20 Section 210 (consequential relieving adjustments) has effect as if –
- (a) in subsection (1)(b), for “the taxpayer” there were substituted “the responsible partner”;
  - (b) subsection (10) were omitted.

*Modifications to section 212A*

- 21 (1) Section 212A (penalty) has effect with the following modifications.
- (2) Subsection (1) is to be read as if –



- (a) for the words before paragraph (a), there were substituted “This section applies if –”;
  - (b) in paragraph (a), the for “P” there were substituted “the responsible partner”;
  - (c) in paragraph (a), for “from particular tax arrangements” there were substituted “to one or more relevant partners”;
  - (d) paragraphs (b) and (c) were omitted.
- (3) Section 212A is to be read as if, after subsection (1), there were inserted –
- “(1A) Each relevant partner is liable to pay a penalty.
  - (1B) The penalty for each relevant partner is 60% of the value of the counteracted tax advantage.
  - (1C) The value of the counteracted tax advantage is to be calculated separately for the purposes of each relevant partner’s penalty.”
- (4) Section 212A is to be read as if subsections (2), (4) and (5) were omitted.

*Modifications to Schedule 43A*

- 22 (1) Schedule 43A has effect with the following modifications.
- (2) Schedule 43A is to be read as if paragraph 4(6) were omitted.
  - (3) Paragraph 1(6) is to be read as if for “R” (in both places) there were substituted “the responsible partner”.
  - (3) Paragraph 2(3) is to be read as if for “R” (in both places) there were substituted “the responsible partner”.
  - (4) Paragraph 3 is to be read as if –
    - (a) in sub-paragraphs (1) and (3), for “R” there were substituted “the responsible partner”, and
    - (b) in sub-paragraph (2)(c), for “R” there were substituted “each relevant partner”.
  - (5) The heading before paragraph 4 is to be read as if “by a notified taxpayer” were omitted.
  - (6) In paragraph 4 –
    - (a) sub-paragraph (1) is to be read as if –
      - (i) the words from “a person” to “takes” were omitted,
      - (ii) after “action” there were inserted “is taken”, and
      - (iii) the for “the person” there were substituted “the responsible partner”;
    - (b) sub-paragraph (2) is to be read as if –
      - (i) “the person takes” were omitted, and
      - (ii) after “and (4)” there were inserted “are taken”;
    - (c) sub-paragraph (3) is to be read as if –
      - (i) in paragraph (a), for “the person” there were substituted “the responsible partner”, and

- (ii) in paragraph (b), for “the person” there were substituted “each relevant partner”;
  - (d) sub-paragraph (4) is to be read as if –
    - (i) in the words before paragraph (a), for “the person” there were substituted “the responsible partner”, and
    - (ii) paragraph (b) were omitted (and the “and” before it were omitted);
  - (e) sub-paragraph (5) is to be read as if –
    - (i) for “a person” there were substituted “a relevant partner”,
    - (ii) for “the person had not taken” were omitted,
    - (iii) after “action” there were inserted “had not been taken”, and
    - (iv) for “the person”, in the last place it occurs, there were substituted “the relevant partner”.
  - (f) sub-paragraph (7) is to be read as if for “the person” there were substituted “the responsible partner”;
  - (g) sub-paragraph (8) is to be read as if for “the taxpayer” there were substituted “the responsible partner”;
  - (h) sub-paragraph (9) is to be read as if paragraphs (a), (d) and (e) were omitted.
- (7) Paragraph 7(3)(a) is to be read as if “to the person” were omitted.
- (8) Paragraph 10(b) is to be read as if for “the person concerned” there were substituted “the responsible partner”.
- (9) Paragraph 11(c) is to be read as if “to a person” were omitted.

*Modifications to Schedule 43C*

- 23 (1) Schedule 43C (penalty under section 212A) has effect with the following modifications.
- (2) Paragraph 2(1) is to be read as if for “section 212A(1)(c)” there were substituted “section 212A(1)”.
  - (3) Paragraph 2(5) is to be read as if for “the person’s liability” there were substituted “a relevant partner’s liability”.
  - (4) Paragraph 3(1) is to be read as if “mentioned in section 212A(1)(b) (“the tax advantage)” were omitted.
  - (5) Paragraph 5(2)(a) is to be read as if, at the end, there were inserted “and the responsible partner”.
  - (6) Paragraph 9(1) is to be read as if for “A person” there were substituted “The responsible partner”.

*Notices may be given on assumption that tax advantage does arise*

- 24 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen.

- (2) Accordingly, any notice given by a designated HMRC officer under paragraph 17 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).”

## PART 2

### MINOR AND CONSEQUENTIAL AMENDMENTS

- 3 In Schedule 43 to FA 2013, in paragraph 13(1) omit “to the taxpayer”.
- 4 (1) Schedule 43A to FA 2013 is amended as follows.
- (2) In paragraph 1 –
- (a) in sub-paragraph (1), after “43” insert “, or paragraph 9 of Schedule 43D,” and
- (b) in sub-paragraph (6), at the end insert “or paragraph 9 of Schedule 43D”.
- (3) In paragraph 2(3) –
- (a) at the end of paragraph (b) insert “or”, and
- (b) after paragraph (b) insert –
- “(c) paragraph 9 of Schedule 43D.”
- (4) In paragraph 12(1), omit “to the person concerned”.
- 5 (1) Schedule 43B to FA 2013 is amended as follows.
- (2) In paragraph 1 –
- (a) in sub-paragraph (1)(a), after “43A” insert “or paragraph 17 of Schedule 43D”;
- (b) in sub-paragraph (1)(b) for the words from the beginning to “43” substitute “the relevant corrective action is taken”.
- (3) In paragraph 2(1)(a), after “43” insert “or paragraph 9 of Schedule 43D (as the case may be)”.
- (4) In paragraph 3 –
- (a) in sub-paragraph (3)(a), after “43” insert “or paragraph 9 of Schedule 43D (as the case may be)”;
- (b) in sub-paragraph (3A), after “43” insert “or paragraph 9 of Schedule 43D”, and
- (c) in sub-paragraph (3A), for “that Schedule” substitute “Schedule 43C”.
- (5) In paragraph 9(1), omit “to the person concerned”.