



Corporation tax: modernising the taxation of corporate debt and derivative contracts

Who is likely to be affected?

This measure affects companies subject to corporation tax, which issue or hold debt or which are party to derivative contracts.

General description of the measure

This measure updates the rules governing the taxation of corporate debt (known as loan relationships) and derivative contracts. It makes a series of changes to update the computation of profits and losses on these instruments and the detailed rules by which they are taxed.

Policy objective

This measure updates the rules to take account of developments in accounting and in business practice since their original introduction in 2006. It supports the Government's policy of simplifying taxation by addressing difficulties which have arisen in the application of the regime. It makes the rules more certain and easier to comply with by clarifying the structure and detailed rules, and makes the regime fairer by providing more robust protection against tax avoidance.

Background to the measure

At Budget 2013, the Government announced consultation on a package of proposals to modernise the corporation tax rules governing the taxation of corporate debt and derivative contracts, with a view to including the bulk of the resulting legislation in Finance Bill 2015.

A consultation document *Modernising the taxation of corporate debt and derivative contracts* was published on 6 June 2013, and the Government's response was published on 10 December 2013.

A Technical Note, setting out the framework of the changes and the Government's priorities in the light of consultation, was published on 8 April 2014.

Detailed proposal

Operative date

The changes made by this measure will have effect in respect of companies' accounting periods commencing on or after 1 January 2016, with two exceptions:

- A new provision which relieves credits which arise when debts of companies in financial distress are released, or the terms modified, will apply to releases and modifications on or after 1 January 2015.
- The new regime anti-avoidance rules will apply, where the conditions are met, in respect of arrangements entered into on or after 1 April 2015.

Current law

The current legislation is in Parts 5 and 7 of the Corporation Tax Act (CTA) 2009, dealing with loan relationships and derivative contracts respectively. Part 6 deals with matters which, while not within the definition of loan relationships, are brought within the Part 5 rules.

The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (SI 2004/3256) (known as the 'Disregard Regulations') provide detailed rules concerning the tax treatment of hedging relationships. The Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (SI 2004 / 3271) provide rules concerning changes in accounting practice.

Proposed revisions

Legislation will be introduced in Finance Bill 2015. The main changes are:

The relationship between accountancy and tax will be clarified and strengthened. In particular, sections 307 and 595 CTA 2009 will be amended to remove the requirement that amounts brought into account for tax must 'fairly represent' the profits, gains and losses arising.

Sections 308 and 597 will be amended to bring the calculation of taxable amounts in line with the usual approach to the computation of profits, for both commercial and tax purposes. Taxation will be based only on amounts recognised as items of accounting profit or loss, rather than on amounts recognised anywhere in accounts – in reserves or equity, for example. A transitional rule will ensure that this change is broadly tax neutral.

Section 322 will be amended and a new section 323A introduced to exclude taxable amounts which would otherwise arise where arrangements are made to restructure the debts of a company in financial distress with a view to ensuring its continued solvency. This will cover situations where debt is released, or where the terms are modified, supplementing and extending the existing rule which exempts credits arising in debtor companies when creditors exchange debt investment for an equity stake.

A new regime-wide anti-avoidance rule will be introduced into each of Parts 5 and 7, which will counter arrangements entered into with a main purpose of obtaining a tax advantage by way of the loan relationships or derivative contracts rules. As a consequence, a number of existing specific anti-avoidance rules will be repealed.

Further changes to Parts 5 and 7 will be made by way of secondary legislation in 2015, in particular to update the rules on forex hedging, convertible instruments and property-based derivatives.

Amendments will be made to secondary legislation by the end of 2014 to facilitate the transition to new accounting standards which many companies will make in 2015. This will permit companies to elect into, rather than out of, the Disregard Regulations; exclude certain transitional adjustments in respect of distressed debt; and preserve the foreign exchange treatment for 'permanent as equity' debt. More information on these accounting changes can be found at www.hmrc.gov.uk/accounting-standards.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	-	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals, households and families	No impact on individuals or households has been identified. The measure is concerned with corporate taxpayers only. The measure is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	No impact on equalities has been identified.					
Impact on business including civil society organisations	This measure is expected to have a negligible one off familiarisation impact on businesses overall. It will affect mainly large companies and that impact is expected to be negligible. The measure is expected to reduce ongoing costs due to simplification of the legislation. No impact on civil society organisations is anticipated.					
Operational impact	Revised legislation should be easier for HM Revenue & Customs to operate and reduce resource needed to combat attempted avoidance.					
Other impacts	<u>Small and micro business assessment</u> : the interaction of small companies with the loan relationships and derivative contracts regimes is generally straightforward, and no material impact on them is anticipated. Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The impact and operation of this measure will be continuously monitored by way of information collected from companies' tax returns and regular contacts with businesses and other stakeholders.

Further advice

If you have any questions about this change, please contact Andy Stewardson on 03000 586085 (email: andy.stewardson@hmrc.gsi.gov.uk).

1 Corporation tax: loan relationships and derivative contracts

Schedule 1 contains provisions relating to loan relationships and derivative contracts.

2 Election of designated currency by UK resident investment company

- (1) Chapter 4 of Part 2 of CTA 2010 (currency) is amended as follows. 5
- (2) Section 9A (designated currency of a UK resident investment company) is amended as follows.
- (3) For subsection (2) substitute –
 - “(2) An election under this section by a company (“X”) takes effect only if, at the time when it is to take effect (see section 9B(1)) – 10
 - (a) X is a UK resident investment company, and
 - (b) Condition A or Condition B is met.”
- (4) Omit subsection (3).
- (5) After subsection (8) insert –
 - “(9) In relation to any period of account for which a currency is X’s designated currency as a result of an election under this section, profits or losses of X that fall to be calculated in accordance with generally accepted accounting practice for corporation tax purposes must be calculated as if – 15
 - (a) the designated currency were the functional currency of the company, and 20
 - (b) no part of X’s business could, in accordance with generally accepted accounting practice, be regarded as having another currency as its functional currency.”
- (6) Section 9B (period for which election under section 9A has effect) is amended as follows. 25
- (7) In subsection (1), for “section 9A(2)(a)” substitute “section 9A”.
- (8) Omit subsection (2).
- (9) In subsection (3), for “section 9A(2)(a)” substitute “section 9A”.
- (10) In subsection (6), for the words from the beginning to “only” substitute “A revocation event occurs in the period of account in which X’s first accounting period begins”. 30

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- (11) After subsection (6) insert –
- “(6A) A revocation event also occurs in a period of account (whether or not a period to which subsection (6) applies) if, at any time during that period, X ceases to be a UK resident investment company.”
- (12) In subsection (7)(a), for “section 9A(2)(a)” substitute “section 9A”. 5
- (13) In section 17 (interpretation of Chapter), for subsection (4) substitute –
- “(4) References in this Chapter to the functional currency of a company or part of a company are references to the currency of the primary economic environment in which the company or part operates.”
- (14) This section has effect in relation to periods of account beginning on or after 1 January 2016. 10
- (15) Subsections (16) and (17) apply if a period of account of a company (“the straddling period of account) begins before, and ends on or after, 1 January 2016.
- (16) It is to be assumed, for the purposes of this section, that the straddling period of account consists of two separate periods of account – 15
- (a) the first beginning with the straddling period of account and ending immediately before 1 January 2016, and
- (b) the second beginning with that day and ending with the straddling period of account. 20
- (17) For the purposes of this section, it is to be assumed –
- (a) that the company prepares its accounts for each of the two periods in the same currency, and otherwise on the same basis, as it prepares its accounts for the straddling period of account, and
- (b) that if the accounts for the straddling period of account, in accordance with generally accepted accounting practice, identify a currency as the company’s functional currency, the accounts for each of the two periods do likewise. 25

SCHEDULES

SCHEDULE 1

Section 1

LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

PART 1

	LOAN RELATIONSHIPS: AMENDMENTS OF PARTS 5 AND 6 OF CTA 2009	5
1	Part 5 of CTA 2009 (loan relationships) is amended as follows.	
2	In section 306 (overview of Chapter 3), in subsection (2) –	
	(a) before paragraph (a) insert –	
	“(za) makes provision about the matters in respect of which amounts are to be brought into account (see section 306A),”	10
	(b) for paragraph (g) substitute –	
	“(g) makes provision about cases where amounts are recognised even though companies are not, or have ceased to be, parties to loan relationships (see section 330A),”.	15
3	After section 306 insert –	
	<i>“Matters in respect of which amounts are to be brought into account</i>	
	306A Matters in respect of which amounts to be brought into account	
	(1) The matters in respect of which amounts are to be brought into account for the purposes of this Part in respect of a company’s loan relationships are –	20
	(a) profits and losses of the company that arise to it from its loan relationships and related transactions (excluding interest or expenses),	25
	(b) interest under those relationships, and	
	(c) expenses incurred by the company under or for the purposes of those relationships and transactions.	
	(2) Expenses are only treated as incurred as mentioned in subsection (1)(c) if they are incurred directly –	30
	(a) in bringing any of the loan relationships into existence,	
	(b) in entering into or giving effect to any of the related transactions,	
	(c) in making payments under any of those relationships or as a result of any of those transactions, or	35

- (d) in taking steps to ensure the receipt of payments under any of those relationships or in accordance with any of those transactions.
- (3) For the treatment of pre-loan relationship and abortive expenses, see section 329.” 5
- 4 (1) Section 307 (general principles about the bringing into accounts of credits and debits) is amended as follows.
- (2) In subsection (2), after “this Part” insert “in respect of the matters mentioned in section 306A(1)”.
- (3) After subsection (2) insert – 10
- “(2A) Subsections (2B) and (2C) apply if an accounting period of a company does not coincide with one or more of its periods of account.
- (2B) The amounts referred to in subsection (2) are to be determined by apportionment in accordance with section 1172 of CTA 2010 (time basis). 15
- (2C) But if it appears that apportionment in accordance with that section would work unreasonably or unjustly for an accounting period, subsection (2) is to be read as referring to amounts that would have been recognised in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice if accounts had been drawn up for that period.” 20
- (4) Omit subsections (3) to (5).
- (5) For subsection (6) substitute –
- “(6) This section is subject to the following provisions of this Part.” 25
- 5 (1) Section 308 (amounts recognised in determining a company’s profit or loss) is amended as follows.
- (2) In subsection (1), for the words from “recognised”, in the second place, onwards substitute “that is recognised in the company’s accounts for the period as an item of profit or loss”. 30
- (3) After subsection (1) insert –
- “(1A) The reference in subsection (1) to an amount recognised in the company’s accounts for the period as an item of profit or loss includes a reference to an amount that –
- (a) was previously recognised as an item of other comprehensive income, and 35
- (b) is transferred to become an item of profit or loss in determining the company’s profit or loss for the period.
- (1B) In subsections (1) and (1A) “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.” 40
- (4) Omit subsections (2) and (3).

- 6 In section 310 (power to make regulations about recognised amounts), in subsections (1)(a) and (b) and (2), omit “or (2)”.
- 7 (1) Section 313 (basis of accounting) is amended as follows.
- (2) In subsection (1), omit the words from “and, in particular,” onwards.
- (3) In subsection (2) – 5
- (a) omit “sections 307(3) and (4) and”,
 - (b) omit paragraphs (e) and (f),
 - (c) at the end of paragraph (g) insert “and”, and
 - (d) omit paragraph (i) and the “and” immediately before it.
- (4) Omit subsection (3). 10
- (5) In subsection (4), for the words from “shown” onwards substitute “measured in the company’s balance sheet at its amortised cost using the effective interest method, but with that amortised cost being adjusted as necessary where the loan relationship is the hedged item under a designated fair value hedge”. 15
- (6) After subsection (4) insert –
- “(4A) In subsection (4) each of the following expressions has the meaning that it has for accounting purposes –
- “amortised cost”, in relation to assets or liabilities;
 - “the effective interest method”, in relation to the measurement of assets or liabilities.” 20
- (7) For subsection (5) substitute –
- “(5) In this Part “fair value accounting” means a basis of accounting under which –
- (a) assets and liabilities are measured in the company’s balance sheet at their fair value, and 25
 - (b) changes in the fair value of assets and liabilities are recognised as items of profit or loss.”
- (8) For subsection (6) substitute –
- “(6) For the meaning of “fair value”, see section 476(1). 30
- (7) In this Part each of the following has the meaning that it has for accounting purposes –
- “designated fair value hedge”;
 - “hedged item”.
- 8 Omit section 314 (power to make regulations about changes from amortised cost basis). 35
- 9 (1) Section 315 (introduction to sections 316 to 319) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) Sections 316 and 318 (adjustments on change of accounting policy) apply if – 40
- (a) a company changes, from one period of account or accounting period to the next, the basis of accounting on

- which credits and debits relating to its loan relationships or any of them are calculated for the purposes of this Part,
- (b) the change falls within subsection (1A) and is not excluded by subsection (1B),
- (c) the old basis accorded with the law or practice applicable in relation to the period before the change, and 5
- (d) the new basis accords with the law and practice applicable to the period after the change.
- (1A) A change falls within this subsection if it results from – 10
- (a) a change of the company’s accounting policy, or
- (b) any provision made by or under this Part (such as section 349 (application of amortised cost basis to connected companies relationships)) requiring a change in the basis of accounting.
- (1B) A change is excluded by this subsection if the company makes the change in order to comply with amending legislation not applicable to the previous period.” 15
- (3) In subsection (2) –
- (a) for “to 319” substitute “and 318”, and
- (b) in paragraph (a), for “those periods of account” substitute “the periods mentioned in subsection (1)”. 20
- (4) Omit subsections (3) and (4).
- (5) In the heading, for “to 319” substitute “and 318”.
- 10 For section 316 substitute –
- “316 Change of basis of accounting involving change of value**
- (1) If there is a difference between – 25
- (a) the tax-adjusted carrying value of an asset or liability at the end of the earlier period, and
- (b) the tax-adjusted carrying value of that asset or liability at the beginning of the later period,
- a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice. 30 35
- (2) This section does not apply so far as the credit or debit falls to be brought into account apart from this section.”
- 11 Omit section 317 (carrying value).
- 12 (1) Section 318 (change of accounting policy following cessation of loan relationship) is amended as follows. 40
- (2) In subsection (1), for paragraph (b) substitute –
- “(b) section 330A (company is not, or has ceased to be, party to loan relationship) applied to the cessation, and”.

- (3) For subsections (2) and (3) substitute –
- “(2) A credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice.” 5
- (4) In subsection (4), for “Subsections (2) and (3) do” substitute “Subsection (2) does”.
- (5) For subsection (5) substitute – 10
- “(5) In this section “the amount outstanding in respect of the loan relationship” means –
- (a) so much of the recognised deferred income or recognised deferred loss from the loan relationship as has not been represented by credits or debits brought into account under this Part in respect of the relationship, and 15
- (b) any amounts relating to the matters mentioned in section 306A(1) in respect of the loan relationship that have in accordance with generally accepted accounting practice been recognised in the company’s accounts as items of other comprehensive income and not transferred to become items of profit or loss.” 20
- (6) After subsection (6) insert –
- “(7) In determining what amounts fall within subsection (5)(b) at the beginning or end of a period, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the period was also applied in previous periods. 25
- (8) But if the company’s accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods which differs from that mentioned in subsection (7), that different assumption applies in determining what amounts fall within subsection (5)(b) at the beginning or end of the period.” 30
- 13 (1) Section 320 (credits and debits treated as relating to capital expenditure) is amended as follows. 35
- (2) For subsections (1) to (3) substitute –
- “(1) This section applies if –
- (a) an amount for an accounting period in respect of a company’s loan relationship relates to any of the matters in section 306A(1), 40
- (b) generally accepted accounting practice allows the amount to be treated in the company’s accounts as an amount recognised in determining the carrying value of an asset or liability, and
- (c) any profit or loss for corporation tax purposes in relation to that asset or liability will not fall to be calculated in accordance with generally accepted accounting practice. 45

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- (2) Despite that treatment, the amount is to be brought into account as a credit or debit for the purposes of this Part, for the accounting period for which it is recognised, in the same way as an amount which is brought into account as a credit or debit in determining the company's profit or loss for that period in accordance with generally accepted accounting practice. 5
- (3) But subsection (2) does not apply to an amount which relates to an intangible fixed asset to which an election under section 730 (writing down at fixed rate: election for fixed-rate basis) applies."
- (3) Omit subsection (4). 10
- (4) For subsections (5) and (6) substitute –
- “(5) If an amount relating to an asset or liability is brought into account as mentioned in subsection (2) as a debit, no debit may be brought into account for the purposes of this Part in respect of –
- (a) the writing down of so much of the value of the asset or liability as is attributable to that debit, or 15
- (b) so much of any amortisation or depreciation representing a writing-off of that value as is attributable to that debit.”
- 14 After section 320 insert –
- “320A Amounts recognised in other comprehensive income and not transferred to profit or loss 20**
- (1) This section applies if –
- (a) in a period of account an asset or liability representing a loan relationship of a company ceases in accordance with generally accepted accounting practice to be recognised in the company's accounts, 25
- (b) amounts relating to the matters mentioned in section 306A(1) in respect of that loan relationship have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and 30
- (c) condition A or B is met.
- (2) Condition A is that, at the time when the asset or liability ceases to be recognised, it is not expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss. 35
- (3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss. 40
- (4) The amounts mentioned in subsection (1)(b) –
- (a) must be brought into account for the purposes of this Part as credits or debits for the period of account in which the time mentioned in subsection (2) or (3) falls, in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice, and 45

- (b) must not be brought into account for a later period of account even if they are subsequently transferred to become items of profit or loss for the later period.
- (5) This section applies in a case where part of an asset or liability representing a loan relationship of a company ceases to be recognised in the company’s accounts as it applies in a case where the whole of an asset or liability representing a loan relationship ceases to be recognised, but as if the reference in subsection (1)(b) to amounts in respect of the loan relationship were a reference to so much of those amounts as are attributable to that part of the asset or liability.
- (6) In determining what amounts fall within subsection (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the period was also applied in previous accounting periods.
- (7) But if the company’s accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in subsection (6), that different assumption applies in determining what amounts fall within subsection (1)(b) at the time in question.
- (8) In this section “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- 15 Omit section 321 (credits and debits recognised in equity). 25
- 16 (1) Section 322 (credits not required to be brought into account in respect of release of debt in certain cases) is amended as follows.
- (2) In subsection (2), for “D” substitute “E”.
- (3) After subsection (5A) of that section insert –
- “(5B) Condition E is that, immediately before the release, it is reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts.” 30
- (4) In subsection (7) of that section, after “Section” insert “323(A1) applies for the interpretation of subsection (5B); and the rest of section”. 35
- 17 In section 323 (meaning of expressions relating to insolvency etc.), before subsection (1) insert –
- “(A1) For the purposes of sections 322(5B) and 323A(1)(b) a company is unable to pay its debts if – 40
- (a) it is unable to pay its debts as they fall due, or
- (b) the value of the company’s assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”

18 After section 323 insert –

“323A Substantial modification: cases where credits not required to be brought into account

- (1) Subsection (2) applies if –
- (a) a debtor relationship of a company is modified or replaced by another, 5
 - (b) immediately before the modification or replacement it is reasonable to assume that, without the modification or replacement and any arrangements of which the modification or replacement forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts, and 10
 - (c) the modification or replacement is treated for accounting purposes as a substantial modification of the terms of a loan relationship of the company. 15
- (2) The company is not required to bring into account for the purposes of this Part a credit in respect of any change in the carrying value of the liability representing the modified or replacement debtor relationship.
- (3) If as a result of subsection (2) no credit was brought into account in respect of a change in the carrying value of a liability representing a debtor relationship, the company may not bring into account a debit for the purposes of this Part in respect of a change in the carrying value of that liability, to the extent that the change represents a reversal of the change in carrying value to which subsection (2) applied. 20
- (4) Section 323(A1) applies for the interpretation of subsection (1)(b).” 25

19 In section 324 (restriction on debts resulting from revaluation), after subsection (3) insert –

- “(3A) Where a company has a hedging relationship between a relevant contract (“the hedging instrument”) and the asset or liability representing the loan relationship, this section does not prevent credits or debits being brought into account in respect of changes in the fair value of the asset or liability which are attributable to any of the risks in respect of which the hedging instrument was intended to act as a hedge.” 30
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20 (1) Section 328 (exchange gains and losses) is amended as follows.

(2) In subsection (1), for “section 307(3)” substitute “section 306A(1)”.

(3) After subsection (2A) insert –

- “(2B) But subsection (2A) does not exclude the application of subsection (1) in respect of an exchange gain or loss arising at a time when an election under section 9A of CTA 2010 (designated currency of UK resident investment company) has effect in relation to the company.” 40

(4) For subsection (3) substitute –

- “(3) Subsection (1) does not apply to an exchange gain or loss of a company so far as it – 45

- (a) arises as a result of the translation of the assets, liabilities, income and expenses of all or part of the company’s business from the functional currency of the business, or that part of the business, into another currency, and
- (b) has been recognised as an item of other comprehensive income. 5
- (3A) In subsection (3) –
- (a) the reference to the functional currency of a business or part of a business is a reference to the currency of the primary economic environment in which the business or part operates, and 10
- (b) “assets, liabilities, income and expenses” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- (5) For subsection (4) substitute – 15
- “(4) The Treasury may by regulations make provision –
- (a) excluding exchange gains or losses of a specified description from subsection (1),
- (b) requiring exchange gains or losses of a specified description to which subsection (1) does not apply to be brought into account in specified circumstances, 20
- (c) as to the way in which, including the currency by reference to which, any exchange gains or losses to be brought into account as a result of provision made under paragraph (b) are to be calculated, and 25
- (d) as to the way in which any such exchange gains or losses are to be brought into account.
- (4ZA) For the purposes of subsection (4)(b), it does not matter whether the application of subsection (1) in relation to the exchange gains or losses is excluded by regulations under subsection (4)(a) or otherwise.” 30
- (6) Omit subsections (4A) and (5).
- (7) For subsection (6) substitute –
- “(6) The reference in subsection (4) to bringing exchange gains or losses into account is a reference to bringing them into account – 35
- (a) for the purposes of this Part as credits or debits arising to a company from its loan relationships, or
- (b) for the purposes of corporation tax on chargeable gains.”
- 21 Omit sections 328A to 328H (loan relationships: arrangements that have a “one-way exchange effect”) (which are superseded by the amendment made by paragraph 45). 40
- 22 (1) Section 329 (pre-loan relationship and abortive expenses) is amended as follows.
- (2) In subsection (1)(c), for “section 307(3)(c)” substitute “section 306A(1)(c)”.
- (3) In subsection (2), for “section 307(3)” substitute “section 307(2)”. 45

23 After section 330 insert –

“Company is not, or has ceased to be, party to loan relationship

330A Company is not, or has ceased to be, party to loan relationship

- (1) This section applies if –
- (a) amounts in respect of a qualifying relationship are recognised in a company’s accounts for an accounting period (“the current period”) as an item of profit or loss even though during all or part of the period the company is not a party to the qualifying relationship, 5
 - (b) any of conditions A to D is met, and 10
 - (c) in the absence of this section, the credits and debits brought into account by the company for the purposes of this Part or Part 7 for the current period would not include credits or debits representing the whole of those amounts.
- (2) In this section “qualifying relationship” means – 15
- (a) a loan relationship, or
 - (b) a relationship that would be a loan relationship if references in section 302(1) to a company were references to any person.
- References in this section to a company being a party to a qualifying relationship are to be read accordingly. 20
- (3) Condition A is that –
- (a) the company was a party to the qualifying relationship,
 - (b) amounts in respect of the qualifying relationship were recognised in the company’s accounts as an item of profit or loss when it was a party to the relationship, and 25
 - (c) any amounts in respect of the relationship continue to be recognised in those accounts as an item of profit or loss.
- (4) Condition B is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a transaction which has the effect of transferring to the company all or part of the risk or reward relating to the qualifying relationship without a corresponding transfer of rights or obligations under the relationship. 30
- (5) Condition C is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a related transaction in relation to a qualifying relationship to which the company was, but has ceased to be, a party. 35
- (6) Condition D is that –
- (a) the amounts recognised as mentioned in subsection (1)(a) are recognised because the company may enter into a qualifying relationship or related transaction but has not yet done so, and 40
 - (b) the amounts are not expenses to which section 329 applies.
- (7) The company must bring credits and debits into account for the purposes of this Part for the accounting period as if the company 45

were a party to the qualifying relationship for the whole of the accounting period.

- (8) The amounts that must be brought into account are those amounts in respect of the qualifying relationship that are recognised in the company's accounts for the accounting period as an item of profit or loss (but subject to the provisions of this Part). 5
- (9) This section is subject to sections 330B and 330C.
- (10) In this section –
 - “item of profit or loss” has the meaning it has for accounting purposes; 10
 - “recognised” means recognised in accordance with generally accepted accounting practice;
 - “related transaction”, in relation to a qualifying relationship, is to be read as if the reference in section 304(1) and (2) to a loan relationship were to a qualifying relationship. 15

330B Exclusion of debit where relief allowed to another

A company is not to bring into account as a debit for the purposes of this Part as a result of section 330A an amount which –

- (a) is brought into account as a debit for those purposes by another company, 20
- (b) is brought into account so as to reduce the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
- (c) is allowable as a deduction by a person for the purposes of income tax. 25

330C Avoidance of double charge

- (1) This section applies if at any time a company (“the relevant company”) is required by section 330A to bring into account as a credit for the purposes of this Part an amount –
 - (a) which is brought into account as a credit for those purposes by another company, 30
 - (b) which is brought into account in determining the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
 - (c) on which a person is charged to income tax. 35
- (2) In order to avoid a double charge to tax in respect of the amount, the relevant company may make a claim for one or more consequential adjustments to be made in respect of the amount to be brought into account as a credit.
- (3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable. 40
- (4) Consequential adjustments may be made –
 - (a) in respect of any period,
 - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and 45

- (c) despite any time limit imposed by or under any enactment.”
- 24 Omit section 331 (company ceasing to be a party to loan relationship) and section 332 (repo, stock lending and other transactions).
- 25 In section 340 (group transfers and transfers of insurance business: transfer at notional carrying value), in subsection (6) – 5
- (a) omit paragraph (a), and
- (b) in paragraph (c), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- 26 (1) Section 342 (issue of new securities on reorganisations: disposal at notional carrying value) is amended as follows. 10
- (2) In subsection (3), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- (3) In subsection (4), omit the definition of “carrying value”.
- 27 Omit section 347 (disapplication of Chapter 4 of Part 5 where transferor party to avoidance) (which is superseded by the amendment made by paragraph 45). 15
- 28 (1) Section 349 (application of amortised cost basis to connected companies relationships) is amended as follows.
- (2) After subsection (2) insert –
- “(2A) Where – 20
- (a) a company has a hedging relationship between a relevant contract (“the hedging instrument”) and the asset or liability representing the loan relationship, and
- (b) the loan relationship is dealt with in the company’s accounts on the basis of fair value accounting, 25
- it is to be assumed in applying an amortised cost basis of accounting for the purpose of subsection (2) that the hedging instrument has where possible been designated for accounting purposes as a fair value hedge of the loan relationship.”
- (3) Omit subsections (3) and (4). 30
- 29 Omit section 350 (companies beginning to be connected) and section 351 (companies ceasing to be connected).
- 30 In section 352 (disregard of related transactions), after subsection (3) insert –
- “(3A) Subsections (2) and (3) do not affect the credits or debits to be brought into account for the purposes of this Part in respect of changes in the fair value of the asset that are attributable to subsequent changes in the corresponding market rate. 35
- (3B) Subsection (3A) is subject to section 354 (exclusion of debits for impaired or released connected companies debts).
- (3C) In relation to a debt, “the corresponding market rate” at any time is the lowest rate at which a company of good financial standing might at that time expect to be able to borrow money at arm’s length in the currency applicable to the debt, for repayment at the same time as the debt and otherwise on similar terms.” 40

- 31 After section 352 insert –
- “352A Exclusion of credits on reversal of disregarded loss**
- (1) If as a result of section 352 the debits brought into account by a company in respect of a loan relationship are reduced, no credit is to be brought into account for the purposes of this Part to the extent that it represents the reversal of so much of the loss as was not brought into account as a debit. 5
- (2) Nothing in this section affects the credits to be brought into account for the purposes of this Part in respect of exchange gains or losses resulting from a debt.” 10
- 32 In section 354 (exclusion of debits for impaired or released connected companies debts), after subsection (2) insert –
- “(2A) Where the carrying value of an asset representing the creditor relationship has at any time been adjusted as a result of being the hedged item under a designated fair value hedge, the rule in subsection (1) does not prevent a credit or debit being brought into account for the purposes of this Part in respect of any reversal of that adjustment.” 15
- 33 (1) Section 358 (exclusion of credits on release of connected companies debts: general) is amended as follows. 20
- (2) After subsection (6) insert –
- “(7) Where the carrying value of a liability representing the debtor relationship has at any time been adjusted as a result of being the hedged item under a designated fair value hedge, this section does not prevent a credit or debit being brought into account for the purposes of this Part in respect of any reversal of that adjustment. 25
- (8) Nothing in this section affects the credits or debits to be brought into account for the purposes of this Part in respect of exchange gains or losses arising from a debt.”
- 34 (1) Section 359 (exclusion of credits on release of connected companies debts during creditor’s insolvency) is amended as follows. 30
- (2) In subsection (1)(d), for “the condition in question” substitute “any of those conditions”.
- (3) After subsection (2) insert –
- “(3) Where the carrying value of a liability representing the debtor relationship has at any time been adjusted as a result of being the hedged item under a designated fair value hedge, this section does not prevent a credit being brought into account for the purposes of this Part in respect of any reversal of that adjustment.” 35
- 35 Omit section 363A (arrangements for avoiding section 361 or 362) (which is superseded by the amendment made by paragraph 45). 40
- 36 In section 422 (transfer of loan relationship at notional carrying value), in subsection (3) –
- (a) omit paragraph (a) (including the “and” at the end), and

- (b) in paragraph (b), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- 37 (1) Section 424 (reorganisations involving loan relationships) is amended as follows.
- (2) In subsection (3), for “its carrying value in” substitute “its tax-adjusted carrying value based on”. 5
- (3) In subsection (4), omit the definition of “carrying value”.
- 38 In section 433 (transfer of loan relationship at notional carrying value), in subsection (3) –
- (a) omit paragraph (a) and the “and” immediately following it, and 10
- (b) in paragraph (b), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- 39 (1) Section 435 (reorganisations involving loan relationships) is amended as follows.
- (2) In subsection (3), for “its carrying value in” substitute “its tax-adjusted carrying value based on”. 15
- (3) In subsection (4), omit the definition of “carrying value”.
- 40 In section 440 (overview of Chapter 15 of Part 5), in subsection (2) –
- (a) in paragraph (a) –
- (i) omit “and tax relief schemes and arrangements”, and 20
- (ii) for “to 443” substitute “and 442”,
- (b) omit paragraph (f) (including the “and” at the end), and
- (c) at the end of paragraph (g) insert “and
- (h) for rules dealing with tax avoidance arrangements, see section 455B to 455D.”. 25
- 41 In section 441 (loan relationships for unallowable purposes), after subsection (3) insert –
- “(3A) If –
- (a) a credit brought into account for that period for the purposes of this Part by the company would (in the absence of this section) be reduced, and 30
- (b) the reduction represents an amount which, if it did not reduce a credit, would be brought into account as a debit in respect of that relationship,
- subsection (3) applies to the amount of the reduction as if it were an amount that would (in the absence of this section) be brought into account as a debit.” 35
- 42 In section 442 (meaning of “unallowable purpose”), after subsection (1) insert –
- “(1A) In subsection (1)(b) “related transaction”, in relation to a loan relationship, includes anything which equates in substance to a disposal or acquisition of the kind mentioned in section 304(1) (as read with section 304(2)).” 40
- 43 Omit section 443 (restriction of relief for interest where tax relief schemes involved) (which is superseded by the amendment made by paragraph 45). 45

- 44 Omit section 454 (application of fair value accounting: reset bonds etc) and section 455 (loan relationships: disposal for consideration not fully recognised by accounting practice) (which are superseded by the amendment made by paragraph 45).
- 45 In Chapter 15 of Part 5, after section 455A insert – 5

“Counteracting avoidance arrangements

455B Counteracting effect of avoidance arrangements

- (1) Any loan-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to credits and debits to be brought into account for the purposes of this Part. 10
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise. 15
- (3) For the meaning of “relevant avoidance arrangements” and “loan-related tax advantage”, see section 455C.

455C Interpretation of section 455B

- (1) This section applies for the interpretation of section 455B (and this section). 20
- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a loan-related tax advantage. 25
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any loan-related tax advantages that would (in the absence of section 455B) arise from them can reasonably be regarded as consistent with any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied) and the policy objectives of those provisions. 30
- (5) A company obtains a “loan-related tax advantage” if – 35
- (a) it brings into account a debit to which it would not otherwise be entitled,
 - (b) it brings into account a debit which exceeds that to which it would otherwise be entitled,
 - (c) it avoids having to bring a credit into account,
 - (d) the amount of any credit brought into account by the company is less than it would otherwise be, or 40
 - (e) it brings a debit or credit into account earlier or later than it otherwise would.

- (6) In subsection (5), references to bringing a debit or credit into account are references to bringing a debit or credit into account for the purposes of this Part.

455D Examples of results that may indicate exclusion not applicable

- (1) Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a loan-related tax advantage are not excluded by section 455C(4) from being “relevant avoidance arrangements” for the purposes of section 455B –
- (a) the elimination or reduction, for purposes of corporation tax, of profits of a company arising from any of its loan relationships, where for economic purposes profits, or greater profits, arise to the company from that relationship; 10
 - (b) the creation or increase, for purposes of corporation tax, of a loss or expense arising from a loan relationship, where for economic purposes no loss or expense, or a smaller loss or expense, arises from that relationship; 15
 - (c) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company’s accounts as an item of profit or loss or be so recognised earlier; 20
 - (d) ensuring that a loan relationship is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements; 25
 - (e) enabling a company to bring into account for the purposes of this Part a debit in respect of an exchange loss, in circumstances where a corresponding exchange gain would not give rise to a credit or would give rise to a credit of a smaller amount; 30
 - (f) enabling a company to bring into account for the purposes of this Part a debit in respect of a fair value loss in circumstances where a corresponding fair value gain would not give rise to a credit or would give rise to a credit of a smaller amount; 35
 - (g) ensuring that the effect of the provisions of Chapter 4 is to produce an overall reduction in the credits brought into account for the purposes this Part or an overall increase in the debits brought into account for those purposes; 40
 - (h) bringing into account for the purposes of this Part a debit in respect of an impairment loss or release debit in a case where the provisions of Chapter 6 would but for the arrangements have prevented this. 40
- (2) But in each case the result concerned is only capable of indicating that section 455C(4) is not available if it is reasonable to assume that such a result was not the anticipated result when the provisions of this Part that are relevant to the arrangements were enacted. 45
- (3) In subsection (1)(f) references to a fair value gain or a fair value loss, in relation to a company, are references respectively to –
- (a) a profit to be brought into account in relation to an asset or liability representing a loan relationship where fair value accounting is used for the period in question, or 50

- (b) a loss to be brought into account in relation to such an asset or liability where fair value accounting is used for the period in question.
- (4) “Arrangements” and “loan-related tax advantage” have the same meaning as in section 455C.” 5
- 46 In Chapter 17 of Part 5, after section 465A insert –
- “Tax-adjusted carrying value*
- 465B “Tax-adjusted carrying value”**
- (1) This section applies for the purposes of this Part.
- (2) “Tax-adjusted carrying value”, in relation to the asset or liability representing a loan relationship, means the carrying value of the asset or liability recognised for accounting purposes, except as provided by subsection (7). 10
- (3) For the purposes of this section the “carrying value” of the asset or liability includes amounts recognised for accounting purposes in relation to the loan relationship in respect of – 15
- (a) accrued amounts,
- (b) amounts paid or received in advance, or
- (c) impairment losses (including provisions for bad or doubtful debts). 20
- (4) For the meaning of “impairment loss” see section 476(1).
- (5) In determining the tax-adjusted carrying value of an asset or liability in a period of account of a company, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the period was also applied in previous periods of account. 25
- (6) But if the company’s accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods of account which differs from that mentioned in subsection (5), that different assumption applies in determining the tax-adjusted carrying value of the asset or liability in the period. 30
- (7) In determining the tax-adjusted carrying value of the asset or liability, the provisions specified in subsection (8) apply as they apply for the purposes of determining the credits and debits to be brought into account under this Part. 35
- (8) Those provisions are –
- (a) section 308(1A) (amounts recognised in other comprehensive income and transferred to profit and loss),
- (b) sections 311 and 312 (amounts not fully recognised for accounting purposes), 40
- (c) section 320A (amounts recognised in other comprehensive income and not transferred to profit and loss),
- (d) section 323A (substantial modification: cases where credits not required to be brought into account),
- (e) section 324 (restriction on debits resulting from revaluation), 45

	(f) section 325 (restriction on credits resulting from reversal of disallowed debits),	
	(g) sections 333 and 334 (company ceasing to be UK resident and non-UK company ceasing to hold loan relationship for UK permanent establishment),	5
	(h) Chapter 4 (continuity of treatment on transfers within groups or organisations),	
	(i) section 349(2) (application of amortised cost basis of accounting to connected companies relationships),	
	(j) section 352 (disregard of related transactions),	10
	(k) section 352A (exclusion of credits on reversal of disregarded loss),	
	(l) section 354 (exclusion of debits for impaired or released connected companies debts),	
	(m) section 360 (exclusion of credits on reversal of impairments of connected companies debts),	15
	(n) sections 361 to 363 (deemed debt releases on impaired debts becoming held by connected company),	
	(o) Chapter 8 (connected parties relationships: late interest),	
	(p) section 382 (company partners using fair value accounting),	20
	(q) sections 399 to 400C (treatment of index-linked gilt-edged securities),	
	(r) section 404 (restriction on deductions etc relating to FOTRA securities),	
	(s) sections 407 and 408 (deeply discounted securities and connected companies),	25
	(t) sections 409 to 412 (deeply discounted securities and close companies),	
	(u) section 415(2) (loan relationships with embedded derivatives),	30
	(v) Chapter 13 (European cross-border transfers of business), and	
	(w) Chapter 14 (European cross-border mergers).”	
47	In section 475 (meaning of expressions relating to exchange gains and losses), in subsection (3), omit “in a case where fair value accounting is used by the company”.	35
48	After section 475 insert –	
	“475A “Hedging relationship”	
	(1) This section applies for the purposes of this Part.	
	(2) A company has a “hedging relationship” between a relevant contract (“the hedging instrument”) and an asset or liability (“the hedged item”) so far as condition A or B is met.	40
	(3) Condition A is that the hedging instrument and the hedged item are designated as a hedge by the company.	
	(4) Condition B is that –	45
	(a) the hedging instrument is intended to act as a hedge of the exposure to changes in fair value of the hedged item which is	

- attributable to a particular risk and could affect the profit or loss of the company, and
- (b) the hedged item is an asset or liability recognised for accounting purposes or is an identified portion of such an asset or liability. 5
- (5) For the purposes of subsections (2) and (4), the liabilities of a company include its own share capital.”
- 49 In section 476 (other definitions), in subsection (1) –
- (a) before the definition of “alternative finance arrangements” insert –
““accounting policy”, in relation to a company, means the principles, bases, conventions, rules and practices that the company applies in preparing and presenting its financial statements,” 10
- (b) after the definition of “equity instrument” insert –
““fair value” has the meaning it has for accounting purposes,” 15
- (c) after the definition of “release debit” insert –
““relevant contract” has the same meaning as in Part 7 (see section 577),”
- (d) in the definition of “tax advantage”, for “has” substitute “, except in the expression “loan-related tax advantage”, has”. 20
- 50 Part 6 of CTA 2009 (relationships treated as loan relationships etc) is amended as follows.
- 51 In section 521F (shares becoming or ceasing to be shares to which section 521B applies) – 25
- (a) in subsection (3), for “its carrying value” substitute “its tax-adjusted carrying value”, and
- (b) omit subsection (4).
- 52 In section 540 (manufactured interest treated as interest under loan relationship), in subsection (3), omit “, including, in particular, section 307(3)”. 30

PART 2

DERIVATIVE CONTRACTS: AMENDMENTS OF PART 7 OF CTA 2009

- 53 Part 7 of CTA 2009 (derivative contracts) is amended as follows.
- 54 In section 594 (overview of Chapter), in subsection (2) – 35
- (a) before paragraph (a) insert –
“(za) makes provision about the matters in respect of which amounts are to be brought into account (see section 594A),”, and
- (b) for paragraph (g) substitute – 40
“(g) makes provision about cases where amounts are recognised even though companies are not, or have ceased to be, parties to derivative contracts (see section 607A),
(ga) makes provision about companies moving abroad (see sections 609 and 610),” 45

55 After section 594 insert –

“Matters in respect of which amounts are to be brought into account

594A Matters in respect of which amounts are to be brought into account

- | | | |
|--------|---|----|
| (1) | The matters in respect of which amounts are to be brought into account for the purposes of this Part in respect of a company’s derivative contracts are – | 5 |
| | (a) profits and losses of the company which arise to it from its derivative contracts and related transactions (including expenses), and | |
| | (b) expenses incurred by the company under or for the purposes of those contracts and transactions. | 10 |
| (2) | Expenses are only treated as incurred as mentioned in subsection (1)(b) if they are incurred directly – | |
| | (a) in bringing any of the derivative contracts into existence, | |
| | (b) in entering into or giving effect to any of the related transactions, | 15 |
| | (c) in making payments under any of those contracts or as a result of any of those transactions, or | |
| | (d) in taking steps to secure the receipt of payments under any of those contracts or in accordance with any of those transactions. | 20 |
| (3) | For the treatment of pre-contract or abortive expenses, see section 607. | |
| (4) | In subsection (1) “profits and losses” include profits and losses of a capital nature. | 25 |
| (5) | For the meaning of “related transaction” see section 596.” | |
| 56 (1) | Section 595 (general principles about the bringing into account of credits and debits) is amended as follows. | |
| | (2) In subsection (2) – | |
| | (a) after “this Part” insert “in respect of the matters mentioned in section 594A(1)”, and | |
| | (b) omit “(but this is subject to subsections (3) and (4))”. | 30 |
| | (3) After subsection (2) insert – | |
| | “(2A) Subsections (2B) and (2C) apply if an accounting period of a company does not coincide with one or more of its periods of account. | 35 |
| | (2B) The amounts referred to in subsection (2) are to be determined by apportionment in accordance with section 1172 of CTA 2010 (time basis). | |
| | (2C) But if it appears that apportionment in accordance with that section would work unreasonably or unjustly for an accounting period, subsection (2) is to be read as referring to amounts that would have been recognised in determining the company’s profit or loss for that | 40 |

- period in accordance with generally accepted accounting practice if accounts had been drawn up for that period.”
- (4) Omit subsections (3) to (6) and (8).
- 57 (1) Section 597 (amounts recognised in determining a company’s profit or loss) is amended as follows. 5
- (2) In subsection (1), for the words from “recognised”, in the second place, onwards substitute “that is recognised in the company’s accounts for the period as an item of profit or loss”.
- (3) After subsection (1) insert –
- “(1A) The reference in subsection (1) to an amount recognised in the company’s accounts for the period as an item of profit or loss includes a reference to an amount that – 10
- (a) was previously recognised as an item of other comprehensive income, and
- (b) is transferred to become an item of profit or loss in determining the company’s profit or loss for the period. 15
- (1B) In subsections (1) and (1A) “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- (4) Omit subsections (2) and (3). 20
- 58 In section 599B (determination of credits and debits where amounts not fully recognised), in subsection (4)(b), for “carrying value” substitute “tax-adjusted carrying value”.
- 59 (1) Section 604 (credits and debits treated as relating to capital expenditure) is amended as follows. 25
- (2) For subsections (1) to (3) substitute –
- “(1) This section applies if –
- (a) an amount for an accounting period in respect of a company’s derivative contract relates to any of the matters in section 594A(1), 30
- (b) generally accepted accounting practice allows the amount to be treated in the company’s accounts as an amount recognised in determining the carrying value of an asset or liability, and
- (c) any profit or loss for corporation tax purposes in relation to that asset or liability will not fall to be calculated in accordance with generally accepted accounting practice. 35
- (2) Despite that treatment, the amount must be brought into account as a credit or debit in accordance with this Part, for the accounting period in which it is recognised, in the same way as an amount which is brought into account as a credit or debit in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice. 40
- (3) But subsection (2) does not apply to an amount which relates to an intangible fixed asset to which an election under section 730 (writing down at fixed rate: election for fixed-rate basis) applies.” 45

- (3) Omit subsection (4).
- (4) For subsection (5) substitute –
- “(5) If an amount is brought into account as mentioned in subsection (2) as a debit, no debit may be brought into account in accordance with this Part in respect of – 5
- (a) the writing down of so much of the value of the asset or liability as is attributable to that debit, or
- (b) so much of any amortisation or depreciation representing a writing-off of that value as is attributable to that debit.”
- 60 After section 604 insert – 10
- “604A Amounts recognised in other comprehensive income and not transferred to profit or loss**
- (1) This section applies if –
- (a) in a period of account a derivative contract of a company ceases in accordance with generally accepted accounting practice to be recognised in the company’s accounts, 15
- (b) amounts relating to the matters mentioned in section 594A(1) in respect of that derivative contract have in accordance with generally accepted accounting practice been recognised in the company’s accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and 20
- (c) condition A or B is met.
- (2) Condition A is that, at the time when the derivative contract ceases to be recognised, it is not expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss. 25
- (3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in subsection (1)(b) will in future be transferred to become items of profit or loss. 30
- (4) The amounts mentioned in subsection (1)(b) –
- (a) must be brought into account for the purposes of this Part as credits or debits for the period of account in which the time mentioned in subsection (2) or (3) falls, in the same way as a credit or debit which is brought into account in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice, and 35
- (b) must not be brought into account for a later period of account even if they are subsequently transferred to become items of profit or loss for the later period. 40
- (5) This section applies in a case where part of a derivative contract of a company ceases to be recognised in the company’s accounts as it applies in a case where the whole of a derivative contract ceases to be recognised, but as if the reference in subsection (1)(b) to amounts in respect of a derivative contract were a reference to so much of those amounts as are attributable to that part of the derivative contract. 45

- (6) In determining what amounts fall within subsection (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the period was also applied in previous accounting periods.
- (7) But if the company’s accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in subsection (6), that different assumption applies in determining what amounts fall within subsection (1)(b) at the time in question.
- (8) In this section “item of profit or loss” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- 61 Omit section 605 (credits and debits recognised in equity).
- 62 (1) Section 606 (exchange gains and losses) is amended as follows.
- (2) In subsection (1), for “section 595(3)” substitute “section 594A(1)”.
- (3) After subsection (2A) insert –
- “(2B) But subsection (2A) does not exclude the application of subsection (1) in respect of an exchange gain or loss arising at a time when an election under section 9A of CTA 2010 (designated currency of UK resident investment company) has effect in relation to the company.”
- (4) For subsection (3) substitute –
- “(3) Subsection (1) does not apply to an exchange gain or loss of a company so far as it –
- (a) arises as a result of the translation of the assets, liabilities, income and expenses of all or part of the company’s business from the functional currency of the business, or that part of the business, into another currency, and
- (b) has been recognised as an item of other comprehensive income.
- (3A) In subsection (3) –
- (a) the reference to the functional currency of a business or part of a business is a reference to the currency of the primary economic environment in which the business or part operates, and
- (b) “assets, liabilities, income and expenses” and “item of other comprehensive income” each has the meaning that it has for accounting purposes.”
- (5) For subsection (4) substitute –
- “(4) The Treasury may by regulations make provision –
- (a) excluding exchange gains or losses of a specified description from subsection (1),
- (b) requiring exchange gains or losses of a specified description to which subsection (1) does not apply to be brought into account in specified circumstances,

- (c) as to the way in which, including the currency by reference to which, any exchange gains or losses to be brought into account as a result of provision made under paragraph (b) are to be calculated, and
- (d) as to the way in which any such exchange gains or losses are to be brought into account. 5
- (4ZA) For the purposes of subsection (4)(b), it does not matter whether the application of subsection (1) in relation to the exchange gains or losses is excluded by regulations under subsection (4)(a) or otherwise.” 10
- (6) Omit subsections (4A) to (5).
- (7) In subsection (6)–
- (a) for “The reference in subsection (5)” substitute “References in subsection (4)”, and
- (b) for “is a reference” substitute “are references”. 15
- 63 Omit sections 606A to 606H (derivative contracts: arrangements that have “one-way exchange effect”) (which are superseded by the amendments made by paragraph 86).
- 64 (1) Section 607 (pre-contract or abortive expenses) is amended as follows.
- (2) In subsection (1)(c), for “section 595(3)(b)” substitute “section 594A(1)(b)”. 20
- (3) In subsection (2), for “section 595(3)” substitute “section 595(2)”.
- 65 After section 607 insert –
- “607A Company is not, or has ceased to be, party to derivative contract**
- (1) This section applies if –
- (a) amounts in respect of a qualifying contract are recognised in a company’s accounts for an accounting period (“the current period”) as an item of profit or loss even though during all or part of the period the company is not a party to the qualifying contract, 25
- (b) any of conditions A to D is met, and 30
- (c) in the absence of this section, the credits and debits brought into account by the company for the purposes of this Part for the current period would not include credits or debits representing the whole of those amounts.
- (2) In this section “qualifying contract” means – 35
- (a) a derivative contract, or
- (b) a contract that would be a derivative contract if references in section 576(1) to a company were references to any person.
- (3) Condition A is that –
- (a) the company was a party to the qualifying contract, 40
- (b) amounts in respect of the qualifying contract were recognised in the company’s accounts as an item of profit or loss when it was a party to the contract, and
- (c) any amounts in respect of the contract continue to be recognised in those accounts as an item of profit or loss. 45

- (4) Condition B is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a transaction which has the effect of transferring to the company all or part of the risk or reward relating to the qualifying contract without a corresponding transfer of rights or obligations under the contract. 5
- (5) Condition C is that the amounts recognised as mentioned in subsection (1)(a) are recognised as a result of a related transaction in relation to a qualifying contract to which the company was, but has ceased to be, a party.
- (6) Condition D is that – 10
- (a) the amounts recognised as mentioned in subsection (1)(a) are recognised because the company may enter into a qualifying contract or related transaction but has not yet done so, and
 - (b) the amounts are not expenses to which section 607 applies.
- (7) The company must bring credits and debits into account for the purposes of this Part for the accounting period as if the company were a party to the qualifying contract for the whole of the accounting period. 15
- (8) The amounts that must be brought into account are those amounts in respect of the qualifying contract that are recognised in the company’s accounts for the accounting period as an item of profit or loss (but subject to the provisions of this Part). 20
- (9) This section is subject to sections 607B and 607C.
- (10) In this section – 25
- “item of profit or loss” has the meaning it has for accounting purposes;
 - “recognised” means recognised in accordance with generally accepted accounting practice;
 - “related transaction”, in relation to a qualifying contract, is to be read as if the reference in section 596(1) and (2) to a derivative contract were to a qualifying contract. 30

607B Exclusion of debit where relief allowed to another

A company is not to bring into account as a debit for the purposes of this Part as a result of section 607A any amount which –

- (a) is brought into account as a debit for those purposes by another company, 35
- (b) is brought into account so as to reduce the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
- (c) is allowable as a deduction by a person for the purposes of income tax. 40

607C Avoidance of double charge

- (1) This section applies if at any time a company (“the relevant company”) is required by section 607A to bring into account as a credit for the purposes of this Part an amount – 45
- (a) which is brought into account as a credit for those purposes by another company,

- (b) which is brought into account in determining the assumed taxable total profits of another company for the purposes of Part 9A of TIOPA 2010 (controlled foreign companies), or
- (c) on which a person is charged to income tax.
- (2) In order to avoid a double charge to tax in respect of the amount, the relevant company may make a claim for one or more consequential adjustments to be made in respect of the amount brought into account as a credit. 5
- (3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable. 10
- (4) Consequential adjustments may be made –
- (a) in respect of any period,
- (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and 15
- (c) despite any time limit imposed by or under any enactment.”
- 66 Omit section 608 (company ceasing to be party to derivative contract).
- 67 (1) Section 613 (introduction to sections 614 and 615) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) Sections 614 and 615 (adjustments on change of accounting policy) apply if – 20
- (a) a company changes, from one period of account or accounting period to the next, the basis of accounting on which credits and debits relating to its derivative contracts or any of them are calculated for the purposes of this Part, 25
- (b) the change falls within subsection (1A) and is not excluded by subsection (1B),
- (c) the old basis accorded with the law or practice applicable in relation to the period before the change, and
- (d) the new basis accords with the law and practice applicable to the period after the change. 30
- (1A) A change falls within this subsection if it results from –
- (a) a change of the company’s accounting policy, or
- (b) any provision made by or under this Part requiring a change in the basis of accounting. 35
- (1B) A change is excluded by this subsection if the company makes the change in order to comply with amending legislation not applicable to the previous period.”
- (3) In subsection (2), for “those periods of account” substitute “the periods mentioned in subsection (1)”. 40
- (4) Omit subsections (3) and (4).
- 68 For section 614 substitute –
- “614 Change of basis of accounting involving change of value**
- (1) If there is a difference between –

- (a) the tax-adjusted carrying value of a derivative contract at the end of the earlier period, and
 - (b) the tax-adjusted carrying value of that derivative contract at the beginning of the later period,

a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice. 5
 - (2) This section does not apply so far as the credit or debit falls to be brought into account apart from this section. 10
- 69 (1) Section 615 (change of accounting policy after ceasing to be party to derivative contract) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute – 15
 - “(b) section 607A (company is not, or has ceased to be, party to derivative contract) applied to the cessation, and”.
 - (3) For subsections (2) and (3) substitute –
 - “(2) A credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of this Part for the later period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.” 20
 - (4) In subsection (4), for “Subsections (2) and (3) do” substitute “Subsection (2) does”. 25
 - (5) For subsection (5) substitute –
 - “(5) In this section “the amount outstanding in respect of the derivative contract” means –
 - (a) so much of the recognised deferred income or recognised deferred loss from the derivative contract as has not been represented by credits or debits brought into account in accordance with this Part in respect of the contract, and 30
 - (b) any amounts relating to the matters mentioned in section 594A(1) in respect of the derivative contract that have in accordance with generally accepted accounting practice been recognised in the company's accounts as items of other comprehensive income and not transferred to become items of profit or loss.” 35
 - (6) After subsection (6) insert – 40
 - “(7) In determining what amounts fall within subsection (5)(b) at the beginning or end of a period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous periods.
 - (8) But if the company's accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods which differs from 45

- that mentioned in subsection (7), that different assumption applies in determining what amounts fall within subsection (5)(b) at the beginning or end of the period.”
- 70 In section 622 (contracts ceasing to be derivative contracts), in subsection (4), for “the carrying value in” substitute “the tax-adjusted carrying value based on”. 5
- 71 In section 625 (group member replacing another as party to derivative contract), in subsection (6)(b), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- 72 Omit section 629 (disapplication of section 625 where transferor party to avoidance) (which is superseded by the amendment made by paragraph 86). 10
- 73 In section 653 (shares issued or deferred as a result of exercise of deemed option), in subsection (2), for “carrying value” substitute “tax-adjusted carrying value”.
- 74 In section 654 (payment instead of disposal on exercise of deemed option), in subsection (3), in the definition of “CV”, in paragraphs (a) and (b), for “carrying value” substitute “tax-adjusted carrying value”. 15
- 75 In section 658 (chargeable gain or allowable loss treated as accruing), in subsection (5)(b), for “carrying value” substitute “tax-adjusted carrying value”. 20
- 76 In section 666 (allowable loss treated as accruing), in subsection (2), in the definition of “B”, for “carrying value” substitute “tax-adjusted carrying value”.
- 77 In section 671 (meaning of G, L and CV in section 670), in subsection (4), for “carrying value”, in each place, substitute “tax-adjusted carrying value”. 25
- 78 In section 673 (meaning of G, L and CV in section 672), in subsection (4), for “carrying value”, in each place, substitute “tax-adjusted carrying value”.
- 79 In section 675 (transfer of derivative contract at notional carrying value), in subsection (3), for “its carrying value in” substitute “its tax-adjusted carrying value based on”. 30
- 80 In section 684 (transfer of derivative contract at notional carrying value), in subsection (3), for “its carrying value in” substitute “its tax-adjusted carrying value based on”.
- 81 In section 689 (overview of Chapter 11 of Part 7), in subsection (2) – 35
- (a) omit paragraph (d) (including the “and” at the end), and
 - (b) at the end of paragraph (e) insert “and
 - (f) for rules dealing with tax avoidance arrangements, see sections 698B to 698D.”
- 82 (1) Section 690 (derivative contracts for unallowable purposes) is amended as follows. 40
- (2) After subsection (3) insert –
- “(3A) If –

- (a) a credit brought into account for that period for the purposes of this Part by the company would (in the absence of this section) be reduced, and
- (b) the reduction represents an amount which, if it did not reduce a credit, would be brought into account as a debit in respect of that contract, 5
- subsection (3) applies to the amount of the reduction as if it were an amount that would (in the absence of this section) be brought into account as a debit.”
- (3) In subsection (6), for “595(3)” substitute “594A(1)”. 10
- 83 In section 691 (meaning of “unallowable purpose”), after subsection (1) insert –
- “(1A) In subsection (1)(b) “related transaction”, in relation to a loan relationship, includes anything which equates in substance to a disposal or acquisition of the kind mentioned in section 596(1) (as read with section 596(2)).” 15
- 84 In section 692 (allowance of accumulated net losses), in Step 3 in subsection (5) –
- (a) for “the amount” substitute “so much”, and
- (b) at the end insert “as are referable to the unallowable purpose mentioned in subsection (1)(a) on a just and reasonable apportionment”. 20
- 85 Omit section 698 (derivative contracts: disposals for consideration not fully recognised by accounting practice) (which is superseded by the amendment made by paragraph 86). 25
- 86 In Chapter 11 of Part 7 of CTA 2009, after section 698A insert –

“Counteracting avoidance arrangements

698B Counteracting effect of avoidance arrangements

- (1) Any derivative-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to credits and debits to be brought into account for the purposes of this Part. 30
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise. 35
- (3) For the meaning of “tax avoidance arrangements” and “derivative-related tax advantage”, see section 698C.

698C Interpretation of section 698B

- (1) This section applies for the interpretation of section 698B (and this section). 40

- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a derivative-related tax advantage. 5
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any derivative-related tax advantages that would (in the absence of section 698B) arise from them can reasonably be regarded as consistent with any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied) and the policy objectives of those provisions. 10
- (5) A company obtains a “derivative-related tax advantage” if—
- (a) it brings into account a debit to which it would not otherwise be entitled, 15
 - (b) it brings into account a debit which exceeds that to which it would otherwise be entitled,
 - (c) it avoids having to bring a credit into account,
 - (d) the amount of any credit brought into account by the company is less than it would otherwise be, or 20
 - (e) it brings a debit or credit into account earlier or later than it otherwise would.
- (6) In subsection (5), references to bringing a debit or credit into account are references to bringing a debit or credit into account for the purposes of this Part. 25

698D Examples of results that may indicate exclusion not applicable

- (1) Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a derivative-related tax advantage are not excluded by section 698C(4) from being “relevant avoidance arrangements” for the purposes of section 698B— 30
- (a) the elimination or reduction, for purposes of corporation tax, of profits of a company arising from any of its derivative contracts, where for economic purposes profits, or greater profits, arise to the company from that contract; 35
 - (b) the creation or increase, for purposes of corporation tax, of a loss or expense arising from a derivative contract, where for economic purposes no loss or expense, or a smaller loss or expense, arises from that contract; 40
 - (c) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company’s accounts as an item of profit or loss or be so recognised earlier;
 - (d) ensuring that a derivative contract is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements; 45

- (e) enabling a company to bring into account a debit in respect of an exchange loss, in circumstances where a corresponding exchange gain would not give rise to a credit or would give rise to a credit of a smaller amount;
 - (f) enabling a company to bring into account a debit in respect of a fair value loss in circumstances where a corresponding fair value gain would not give rise to a credit or would give rise to a credit of a smaller amount. 5
 - (2) But in each case the result concerned is only capable of indicating that section 698C(4) is not available if it is reasonable to assume that such a result was not the anticipated result when the provisions of this Part that are relevant to the arrangements were enacted 10
 - (3) In subsection (1)(f) references to a fair value gain or a fair value loss are references respectively to—
 - (a) a profit to be brought into account in relation to a derivative contract where fair value accounting is used for the period in question, or 15
 - (b) a loss to be brought into account in relation to a derivative contract where fair value accounting is used for the period in question. 20
 - (4) “Arrangements” and “derivative-related tax advantage” have the same meaning as in section 698C.”
- 87 For section 702 substitute—
 - “702 “Tax-adjusted carrying value”**
 - (1) This section applies for the purposes of this Part. 25
 - (2) “Tax-adjusted carrying value”, in relation to a contract, means the carrying value of the contract recognised for accounting purposes, except as provided by subsection (6).
 - (3) For the purposes of this section the “carrying value” of the contract includes amounts recognised for accounting purposes in relation to the contract in respect of—
 - (a) accrued amounts,
 - (b) amounts paid or received in advance, or
 - (c) impairment losses (including provisions for bad or doubtful debts). 35
 - (4) In determining the tax-adjusted carrying value of a contract in a period of account of a company, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the period was also applied in previous periods of account.
 - (5) But if the company’s accounts for the period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous periods of account which differs from that mentioned in subsection (4), that different assumption applies in determining the tax-adjusted carrying value of the contract in the period. 40
 - (6) In determining the profits and losses to be recognised in determining the tax-adjusted carrying value of the contract, the provisions 45

specified in subsection (7) apply as they apply for the purposes of determining the credits and debits to be brought into account in accordance with this Part.

- (7) Those provisions are –
- (a) section 584 (hybrid derivatives with embedded derivatives), 5
 - (b) section 585 (loan relationships with embedded derivatives),
 - (c) section 586 (other contracts with embedded derivatives),
 - (d) section 597 (amounts recognised in determining profit or loss),
 - (e) sections 599A and 599B (amounts not fully recognised for accounting purposes), 10
 - (f) section 604A (amounts recognised in other comprehensive income and not transferred to profit and loss),
 - (g) Chapter 5 (transactions within groups),
 - (h) Chapter 9 (European cross-border transfers of business), and 15
 - (i) Chapter 10 (European cross-border mergers).
- (8) In this section “impairment loss” means a debit in respect of the impairment of a financial asset and “impairment” includes uncollectability.”
- 88 In section 705 (expressions relating to exchange gains and losses), in subsection (3), omit “in a case where fair value accounting is used by the company”. 20
- 89 In section 710 (other definitions) –
- (a) for the definition of “fair value accounting” substitute –
 - ““fair value accounting” means a basis of accounting under which –
 - (a) assets and liabilities are measured in the company’s balance sheet at their fair value, and
 - (b) changes in the fair value of assets and liabilities are recognised as items of profit or loss,” and 25
 - (b) omit the definition of “statement of comprehensive income”. 30

PART 3

AMENDMENTS OF TCGA 1992 RELATING TO LOAN RELATIONSHIPS 35

- 90 (1) Section 151E of TCGA 1992 (exchange gains and losses from loan relationships: regulations) is amended as follows.
- (2) In subsection (1) –
- (a) for “amounts” substitute “exchange gains or losses (as defined by section 475 of CTA 2009)”, and 40
 - (b) for “or (4) of that Act” substitute “of that Act or because of regulations under section 328(4) of that Act”.

(3) After that subsection insert –

“(1A) The regulations may make provision as to the way in which, including the currency by reference to which, the amounts to be brought into account are to be calculated.”

PART 4

5

CONSEQUENTIAL AMENDMENTS

91 (1) Schedule 4 to CTA 2009 (index of defined expressions) is amended as follows.

(2) Before the entry beginning “accounting value” insert –

“accounting policy (in Parts 5 and 6)	section 476”.	10
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(3) Omit the entry beginning “carrying value (in Part 7)”.

(4) Before the entry beginning “designated (in Part 7)” insert –

“designated fair value hedge (in Parts 5 and 6)	section 313(7)”.	
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(5) In the entry relating to “fair value (in Parts 5 and 6)”, for “313(6)” substitute “476(1)”. 15

(6) Before the entry beginning “hedging relationship (in Part 7)” insert –

“hedged item (in Parts 5 and 6)	section 313(7).	
hedging relationship (in Parts 5 and 6)	section 475A”.	

(7) Before the entry beginning “relevant contract (in Part 7)” insert – 20

“relevant contract (in Parts 5 and 6)	section 476(1)”.	
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(8) Omit the entries relating to “statement of comprehensive income (in Parts 5 and 6)” and “statement of comprehensive income (in Part 7)”.

(9) After the entry beginning “surrender” insert –

“tax-adjusted carrying value (in Parts 5 and 6)	section 465A	25
tax-adjusted carrying value (in Part 7)	section 702”.	

(10) Omit the entries relating to “the Part 5 one-way exchange provisions” and “the Part 7 one-way exchange provisions”.

92 In Schedule 21 to FA 2009, omit paragraphs 1 to 3, 7 and 9.

PART 5

COMMENCEMENT AND TRANSITIONAL PROVISIONS

Introductory

- 93 This Part of this Schedule contains provision about the coming into force of the amendments in Parts 1 to 4 of this Schedule. 5

Commencement: the general rule

- 94 The general rule is that the amendments made by Parts 1 to 4 of this Schedule have effect in relation to accounting periods beginning on or after 1 January 2016.
- 95 This general rule – 10
- (a) does not apply in relation to the provisions dealt with by paragraphs 96 to 101, and
 - (b) has effect subject to the transitional provisions in paragraphs 102 to 116.

Commencement: sections 321, 349 and 605 of CTA 2009 15

- 96 (1) Paragraphs 15, 28 and 61 have effect in relation to loan relationships entered into by a company in an accounting period beginning on or after 1 January 2016.
- (2) In relation to loan relationships entered into in by a company in an accounting period beginning before that date, the reference in section 349 of CTA 2009 to an amortised cost basis of accounting is to be read in relation to the company without regard to the amendment of section 313(4) of that Act made by paragraph 7(5). 20

Commencement: insolvency, corporate rescue etc

- 97 Paragraphs 16 to 18 have effect in relation to the release, modification or replacement of a debtor relationship of a company on or after 1 January 2015. 25

Commencement: anti-avoidance provisions etc

- 98 The following provisions have effect in relation to arrangements entered into on or after 1 April 2015 –
- paragraph 20, so far as relating to the repeal of section 328(4A) of CTA 2009, 30
 - paragraph 21,
 - paragraph 27,
 - paragraph 35,
 - paragraph 40(a) and (c), 35
 - paragraph 45,
 - paragraph 49(d),
 - paragraph 62, so far as relating to the repeal of section 606(4C) and (4D) of CTA 2009,
 - paragraph 63, 40
 - paragraph 72,

	paragraph 81(b), paragraph 86, and paragraph 91(10).	
99	The following provisions – paragraph 28, so far as relating to the repeal of section 349(3) of CTA 2009, paragraph 44, so far as relating to the repeal of section 454 of CTA 2009, have effect where conditions A and B in section 454 of CTA 2009 were first met in relation to the asset on or after 1 April 2015.	5
100	The following provisions – paragraph 40(b), paragraph 44, so far as relating to the repeal of section 455 of CTA 2009, paragraph 81(a) and paragraph 85, have effect in relation to disposals on or after 1 April 2015.	10 15
101	Paragraph 43 has effect where the scheme was effected, or the arrangements were made, on or after 1 April 2015.	

Transitional adjustments relating to loan relationships

102	(1) This paragraph applies to a loan relationship of a company if –	
	(a) amounts relating to the matters mentioned in section 306A(1) of CTA 2009 (as inserted by paragraph 3) in respect of the loan relationship have in accordance with generally accepted accounting practice been recognised in the company’s accounts as items of other comprehensive income,	20
	(b) those amounts have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1 January 2016, and	25
	(c) those amounts have been brought into account as credits or debits for the purposes of Part 5 of CTA 2009 in an accounting period beginning before 1 January 2016.	30
	(2) There is to be made an overall transitional adjustment of such amount as is just and reasonable in the circumstances having regard to the amounts which would otherwise be brought into account twice by the company for those purposes as credits or debits.	
	(3) The overall transitional adjustment must be made by making transitional adjustments in accordance with paragraph 103.	35
	(4) In determining what amounts fall within sub-paragraph (1), it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the last accounting period of the company beginning before 1 January 2016 (“the pre-commencement period”) was also applied in previous accounting periods.	40
	(5) But if the company’s accounts for the pre-commencement period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in sub-paragraph (4), that different	45

assumption applies in determining what amounts fall within sub-paragraph (1).

- 103 (1) If paragraph 102 applies in relation to a loan relationship of a company, then for each relevant accounting period a credit or debit of an amount equal to the transitional adjustment for the period must be brought into account for the purposes of Part 5 of CTA 2009 in the same way as a credit or debit which is brought into account in determining the company's profit or loss for the period in accordance with generally accepted accounting practice. 5
- (2) The relevant accounting periods are – 10
- (a) the first accounting period of the company beginning on or after 1 January 2016, and
- (b) each subsequent accounting period all or part of which falls within the transitional years.
- (3) The transitional years are the 5 years beginning with the first day of the first accounting period of the company beginning on or after 1 January 2016. 15
- (4) The transitional adjustment for each relevant accounting period is calculated as follows.
- (5) Allocate a percentage of the overall transitional adjustment (determined under paragraph 102) to each of the 5 transitional years as follows –

1st year	40%	20
2nd year	25%	
3rd year	15%	
4th year	10%	
5th year	10%	

- (6) If a transitional year coincides with an accounting period, the transitional adjustment for the accounting period is the amount allocated to that year. 25
- (7) In any other case – 30
- (a) apportion the amount allocated to each transitional year between accounting periods according to the number of days in the transitional year which fall within each period, and
- (b) the transitional adjustment for an accounting period is the total of the amounts apportioned to that period.
- 104 Paragraphs 102 and 103 do not require an amount to be brought into account if it has already been brought into account under regulations under section 328 of CTA 2009 (exchange gains and losses). 35
- 105 Where section 316 of CTA 2009 (change of accounting policy involving change of value), as substituted by paragraph 10, applies in relation to the first accounting period of a company beginning on or after 1 January 2016, the overall transitional adjustment required by paragraphs 102 and 103 is to be calculated and applied before calculating any credit or debit required by that section. 40
- 106 (1) This paragraph applies if –

- (a) an overall transitional adjustment is required by paragraph 102 in respect of a loan relationship of a company, and
 - (b) before the end of the 5 years mentioned in paragraph 103(3), the company –
 - (i) ceases to be within the charge to corporation tax, or 5
 - (ii) starts to be wound up.
- (2) The company must bring into account for the purposes of Part 5 of CTA 2009 in the accounting period ending with the event within sub-paragraph (1)(b) a credit or debit of an amount equal to so much of the overall transitional adjustment as has not previously been brought into account. 10
- (3) For the purposes of this paragraph a company starts to be wound up –
- (a) when the company passes a resolution for the winding up of the company,
 - (b) when a petition for the winding up of the company is presented, if the company has not already passed such a resolution and a winding up order is made on the petition, or 15
 - (c) when an act is done in relation to the company for a similar purpose, if the winding up is not under the Insolvency Act 1986.

Transitional adjustments relating to derivative contracts

- 107 (1) This paragraph applies to a derivative contract of a company if – 20
- (a) amounts relating to the matters mentioned in section 594A(1) of CTA 2009 (as inserted by paragraph 55) in respect of the derivative contract have in accordance with generally accepted accounting practice been recognised in the company’s accounts as items of other comprehensive income, 25
 - (b) those amounts have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1 January 2016, and
 - (c) those amounts have been brought into account as credits or debits for the purposes of Part 7 of CTA 2009 in an accounting period beginning before 1 January 2016. 30
- (2) There is to be made an overall transitional adjustment of such amount as is just and reasonable in the circumstances having regard to the amounts which would otherwise be brought into account twice by the company for those purposes as credits or debits. 35
- (3) The overall transitional adjustment must be made by making transitional adjustments in accordance with paragraph 108.
- (4) In determining what amounts fall within sub-paragraph (1), it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the last accounting period of the company beginning before 1 January 2016 (“the pre-commencement period”) was also applied in previous accounting periods. 40
- (5) But if the company’s accounts for the pre-commencement period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in sub-paragraph (4), that different assumption applies in determining what amounts fall within sub-paragraph (1). 45

- 108 (1) If paragraph 107 applies in relation to a derivative contract of a company, then for each relevant accounting period a credit or debit of an amount equal to the transitional adjustment for the period must be brought into account for the purposes of Part 7 of CTA 2009 in the same way as a credit or debit which is brought into account in determining the company's profit or loss for the period in accordance with generally accepted accounting practice. 5
- (2) The relevant accounting periods are –
- (a) the first accounting period of the company beginning on or after 1 January 2016, and
- (b) each subsequent accounting period all or part of which falls within the transitional years. 10
- (3) The transitional years are the 5 years beginning with the first day of the first accounting period of the company beginning on or after 1 January 2016.
- (4) The transitional adjustment for each relevant accounting period is calculated as follows. 15
- (5) Allocate a percentage of the overall transitional adjustment (determined under paragraph 107) to each of the 5 transitional years as follows –

1st year	40%
2nd year	25%
3rd year	15%
4th year	10%
5th year	10%

- 20
- (6) If a transitional year coincides with an accounting period, the transitional adjustment for the accounting period is the amount allocated to that year.
- (7) In any other case – 25
- (a) apportion the amount allocated to each transitional year between accounting periods according to the number of days in the transitional year which fall within each period, and
- (b) the transitional adjustment for an accounting period is the total of the amounts apportioned to that period. 30
- 109 Paragraphs 107 and 108 do not require an amount to be brought into account if it has already been brought into account under regulations under section 606 of CTA 2009 (exchange gains and losses).
- 110 Where section 614 of CTA 2009 (change of accounting policy involving change of value), as substituted by paragraph 68, applies in relation to the first accounting period of a company beginning on or after 1 January 2016, the overall transitional adjustment required by paragraphs 107 and 108 is to be calculated and applied before calculating any credit or debit required by that section. 35
- 111 (1) This paragraph applies if – 40
- (a) an overall transitional adjustment is required by paragraph 107 in respect of a loan relationship of a company, and

- (b) before the end of the 5 years mentioned in paragraph 108(3), the company –
 - (i) ceases to be within the charge to corporation tax, or
 - (ii) starts to be wound up.
- (2) The company must bring into account for the purposes of Part 5 of CTA 2009 in the accounting period ending with the event within sub-paragraph (1)(b) a credit or debit of an amount equal to so much of the overall transitional adjustment as has not previously been brought into account. 5
- (3) For the purposes of this paragraph a company starts to be wound up –
 - (a) when the company passes a resolution for the winding up of the company, 10
 - (b) when a petition for the winding up of the company is presented, if the company has not already passed such a resolution and a winding up order is made on the petition, or
 - (c) when an act is done in relation to the company for a similar purpose, if the winding up is not under the Insolvency Act 1986. 15

Straddling accounting periods treated as split for certain purposes

- 112 If a company has an accounting period which begins before and ends on or after 1 January 2016 (“the straddling period”), so much of the straddling period as falls before that date, and so much of that period as falls on or after that date, are treated for the purposes of each of the following provisions as separate accounting periods – 20
- paragraph 20(3), and
 - paragraph 62(3).

Transitional provision relating to abolition of “fairly represents” test 25

- 113 If in an accounting period beginning before 1 January 2016, subsection (3) of section 307 of CTA 2009 prevents a company from bringing into account for the purposes of Part 5 of that Act a credit or debit that it would otherwise bring into account, no debit or credit is to be brought into account for those purposes under section 307 as amended by paragraph 4 in an accounting period beginning on or after 1 January 2016 to the extent that the debit or credit represents a reversal (in whole or part) of the debit or credit previously excluded. 30
- 114 If in an accounting period beginning before 1 January 2016, subsection (3) of section 595 of CTA 2009 prevents a company from bringing into account for the purposes of Part 7 of that Act a credit or debit that it would otherwise bring into account, no debit or credit is to be brought into account for those purposes under section 595 as amended by paragraph 56 in an accounting period beginning on or after 1 January 2016 to the extent that the debit or credit represents a reversal (in whole or part) of the debit or credit previously excluded. 35 40

Transitional provision relating to fixed capital asset or project

- 115 If in an accounting period of a company beginning before 1 January 2016 credits or debits relating to a fixed capital asset or project were as a result of section 320 of CTA 2009 brought into account for the purposes of Part 5 of that Act, the condition in subsection (1)(c) of section 320 as amended by 45

paragraph 13 is to be taken to be met in relation to that fixed capital asset or project in subsequent accounting periods.

- 116 If in an accounting period of a company beginning before 1 January 2016 credits or debits relating to a fixed capital asset or project were as a result of section 604 of CTA 2009 brought into account for the purposes of Part 7 of that Act, the condition in subsection (1)(c) of section 604 as amended by paragraph 59 is to be taken to be met in relation to that fixed capital asset or project in subsequent accounting periods.

EXPLANATORY NOTE

CORPORATION TAX: LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

SUMMARY

1. Clause [X] introduces Schedule [A], which implements a package of proposals to modernise the corporation tax rules governing the taxation of corporate debt ('loan relationships') and derivative contracts. The main areas of change are:

- clarifying the relationship between tax and accounting;
- basing taxable loan relationship profits on accounting profit and loss entries;
- a new 'corporate rescue' rule to provide tax relief where loans are released or modified in cases of debtor companies in financial distress;
- new regime-wide anti-avoidance rules for both loan relationships and derivative contracts.

2. The changes will generally take effect for accounting periods commencing on or after 1 January 2016. However, the corporate rescue rule will apply from 1 January 2015, and the new regime anti-avoidance rules will apply from 1 April 2015.

DETAILS OF THE SCHEDULE

Part 1: Loan Relationships: Amendments of Parts 5 and 6 of Corporation Tax Act 2009 (CTA 2009)

3. Part 1 of the Schedule makes changes to Part 5 of CTA 2009, which sets out rules governing the treatment of loan relationships. Paragraph 1 introduces the changes.

4. Paragraph 2 makes changes to the overview in section 306 to reflect the amendments now being made.

5. Paragraph 3 inserts new section 306A, which sets out the matters in respect of which amounts are to be brought into account for the purposes of Part 5. These were previously contained in section 307, and are unchanged. The matters are profits, losses, interest and expenses arising to a company on its loan relationships.

6. Paragraph 4 makes various changes to section 307, which sets out general principles about the bringing into account of credits and debits. In particular it removes the requirement that credits and debits brought into account should 'fairly represent' profits and gains arising from loan relationships. It provides a new rule for apportionment of amounts where an accounting period of a company does not coincide with a period of accounts.

7. Paragraph 5 sets out amendments to section 308 concerning amounts recognised in determining a company's profit or loss. It establishes that this is now to be based on amounts recognised in the accounts as items of profit or loss. New subsection (1A) makes clear that this includes amounts that were previously recognised in other comprehensive income and which are subsequently transferred to profit or loss.
8. Paragraph 6 makes consequential amendments section 310 which contains a regulation-making power to allow certain amounts to be excluded from being brought into account.
9. Paragraph 7 makes various amendments to section 313 concerning the bases of accounting in accordance with which amounts may be brought into account for tax purposes. The definition of an amortised cost basis of accounting is aligned with accountancy, and adjustments under a designated fair value hedge are permitted. The definition of 'fair value accounting' is aligned with accounting treatment where an instrument is measured at fair value through profit or loss.
10. Paragraph 8 removes a regulation-making power relating to the amortised cost basis of accounting.
11. Paragraphs 9 to 12 are concerned with changes of companies' accounting policies. Paragraph 9 makes a series of amendments to section 315, extending the scope of sections 316 and 318 to apply where a company alters its basis of accounting to comply with tax rules.
12. Paragraph 10 substitutes a new section 316, clarifying rules for determining the credit or debit to be brought into account in cases where there is a change in the tax-adjusted carrying value of a loan relationship, and aligning the rules with equivalent provisions in Part 7 of CTA 2009.
13. Paragraph 11 omits section 317 concerning carrying values. This is now replaced by the new section 465B.
14. Paragraph 12 amends section 318 concerning changes of accounting policy following cessation of a loan relationship, clarifying credits or debits to be brought into account and aligning the rules with equivalent provisions in Part 7 of CTA 2009. Subsection (5) updates the definition of 'the amount outstanding in respect of the loan relationship' to take account of the changes to section 308 introduced by paragraph 5; the definition now includes amounts recognised in other comprehensive income. New subsections (7) and (8) require that, in assessing any such amounts at the end of the 'earlier period' or the beginning of the 'later period' (as defined in section 315), it is necessary to follow the accounting treatment in assuming that the accounting policy applied in that period was also applied in earlier periods. But if the accounting treatment was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.

15. Paragraph 13 amends section 320, concerning credits and debits that are capitalised in the carrying value of an asset or liability. The changes clarify that the provisions only apply where amounts would not otherwise be brought into account.
16. Paragraph 14 inserts new section 320A, setting out the treatment of amounts recognised in other comprehensive income but not transferred to profit or loss at the time when a loan relationship, or part of a loan relationship, ceases to be recognised in a company's accounts. Together with new subsection 308(1A), inserted by paragraph 5, this ensures that all amounts recognised as items of other comprehensive income will be brought into account at some point. Subsection (4) provides that these amounts are to be brought into account in the same way as amounts recognised in determining the company's profit or loss for the period, making clear that the amounts are subject to all the provisions of Part 5. Subsections (6) and (7) require that, in assessing amounts recognised in other comprehensive income, it is necessary to follow the accounting treatment in assuming that the accounting policy applied when the loan relationship ceased to be recognised was also applied in earlier periods. But if the accounting treatment applied at that time was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.
17. Paragraph 15 omits section 321 concerning credits and debits recognised in equity. Amounts recognised in equity will no longer normally be brought into account under Part 5.
18. Paragraph 16 amends section 322, which exempts credits arising in certain cases where a debt is released. It inserts a new subsection (5B) which exempts credits arising on releases where there is a material risk that within 12 months of the release the company will be unable to pay its debts. Paragraph 17 amends section 323 to explain what is meant by 'unable to pay its debts'. Broadly, the exemption is intended to apply where a debtor company is in significant financial distress.
19. Paragraph 18 inserts new section 323A. This applies where a company's debt is substantially modified or replaced, and there is a material risk that the company will within 12 months be unable to pay its debts. In these circumstances, it is not required to bring credits into account in respect of the modification or replacement. Any subsequent reversal is not brought into account as a debit. Like new subsection 322(5B), the exemption is intended to apply where a debtor company is in significant financial distress.
20. Paragraph 19 inserts new subsection 324(3A) to clarify that credits and debits in respect of valuation changes in respect of hedged assets and liabilities are not excluded.
21. Paragraph 20 makes a series of changes to section 328 concerning exchange gains and losses. It clarifies that amounts arising on the retranslation of a business from its functional currency into a different currency are not profits or losses within Part 5. It provides a power to make regulations concerning the exclusion or inclusion of exchange gains and losses from or in the Part 5 rules.
22. Paragraph 21 omits sections 328A to 328H, which are superseded by the anti-avoidance provisions introduced by paragraph 45.

23. Paragraph 23 inserts new sections 330A, 330B and 330C.
24. New section 330A provides that where a company recognises amounts in its accounts in respect of a loan relationship to which it is not legally a party, it is treated as if it were a party. The section applies where a company has ceased to be, or has yet to become, party to a loan, or where the risks and rewards of a loan have been transferred.
25. New sections 330B and 330C ensure that the rule in section 330A will not lead to, respectively, double relief or double taxation where another company also brings into account debits or credits in respect of the same loan.
26. Paragraph 24 omits sections 331 and 332 concerned with companies ceasing to be a party to loan relationship. These provisions are superseded by new section 330A.
27. Paragraphs 25 and 26 make minor adjustments to sections 340 and 342, concerning transfers of loan relationships within groups, to reflect changes elsewhere.
28. Paragraph 27 omits section 347, which is superseded by the anti-avoidance provisions introduced by paragraph 45.
29. Paragraph 28 amends section 349, concerning the application of amortised cost basis to connected companies relationships. It inserts a new subsection (2A) which provides rules for cases involving certain hedging instruments where the company adopts fair value accounting.
30. Paragraph 29 omits sections 350 (companies beginning to be connected) and 351 (companies ceasing to be connected). These are now obsolete following the changes to section 315.
31. Paragraph 30 amends section 352, which excludes credits and debits from tax where there is a related transaction involving a connected company loan relationship. It ensures that credits and debits are not prevented from being brought into account by the operation of section 352 where those amounts are attributable to interest rate movements on an arm's length borrowing.
32. Paragraph 31 inserts new section 352A, which provides that where debits brought into account are reduced as a result of section 352, no credit is subsequently brought into account to the extent that it represents a reversal of a loss which gave rise to the reduction of debits.
33. Paragraphs 32 and 33 amend sections 354 (exclusion of debits for impaired or released connected company debts) and 358 (exclusion of credits on release of connected company debts). They provide rules for clawing back amounts previously recognised by the company in respect of a designated fair value hedge in cases where the debt is released.
34. Paragraphs 34 and 36 to 39 make minor amendments to sections 359 (exclusion of credits on release of connected companies debts during creditor's insolvency), 422 (transfer of loan relationship at notional carrying value), 424 (reorganisations involving loan

relationships), 433 (transfer of loan relationship at notional carrying value) and 435 (reorganisations involving loan relationships).

35. Paragraph 35 omits section 363A, which is superseded by the anti-avoidance provisions introduced by paragraph 45.

36. Paragraph 40 makes consequential amendments to section 440.

37. Paragraph 41 amends section 441 concerning loan relationships held for unallowable purposes. It provides clarification on the scope of the debits that a company may not bring into account in cases where a debit is incorporated within a credit.

38. Paragraph 42 amends section 442 concerning the meaning of ‘unallowable purpose’. It ensures that the meaning of ‘related transaction’ includes, for the purposes of this section, anything which in substance equates to a related transaction.

39. Paragraph 43 omits section 443, which is superseded by the anti-avoidance provisions introduced by paragraph 45.

40. Paragraph 44 omits sections 454 and 455, which are superseded by the anti-avoidance provisions introduced by paragraph 45.

41. Paragraph 45 inserts new sections 455B, 455C and 455D, which counter tax avoidance.

42. New section 455B provides a new anti-avoidance rule to counteract ‘loan-related tax advantages’ arising from ‘relevant avoidance arrangements’, by way of just and reasonable adjustments to credits and debits under Part 5.

43. New section 455C defines ‘relevant avoidance arrangements’. Subsection (4) excludes from that definition arrangements aimed at obtaining tax advantages which can reasonably be assumed to have been intended under the loan relationships legislation. Subsection (6) defines a ‘loan-related tax advantage’ in terms of credits and debits under Part 5.

44. New section 455D gives, in subsection (1), non-exhaustive examples of results which might indicate that the exclusion from the definition of ‘relevant avoidance arrangements’ in section 455C(4) should not apply. Subsection (2) ensures that the examples in subsection (1) are only relevant to the availability of the section 455C(4) exclusion if it is reasonable to assume that the result in question was not the anticipated outcome when any provisions of Part 5 engaged by the arrangements were enacted.

45. Paragraph 46 inserts new section 465B concerning ‘tax adjusted carrying value’. This replaces the previous section 317 and explains the meaning of this term in the context of loan relationships. It is based on the carrying value in the company’s accounts, adjusted as a result of particular statutory provisions. The reference in subsection (8) to section 308(1A) and section 320A ensure that the carrying value is adjusted for amounts that have been recognised as items of other comprehensive income, and which represent amounts that will in

the future be brought into account. Subsections (5) and (6) require that, in determining the tax-adjusted carrying value of an asset, it is necessary to follow the accounting treatment in assuming that the accounting policy applied at the relevant time was also applied in earlier periods. But if the accounting treatment applied at that time was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.

46. Paragraph 47 amends section 475 to broaden the circumstances in which regulations may be made concerning the calculation of exchange gains and losses, by removing their restriction to cases where fair value accounting is used. This follows the change made by paragraph 7 to the definition of fair value accounting in section 313.

47. Paragraph 48 inserts new section 475A concerning hedging relationships. This explains the circumstances in which a company has a 'hedging relationship'.

48. Paragraph 49 amends section 476, to introduce definitions of several terms used in the Schedule.

49. Paragraph 50 introduces amendments to Part 6 of CTA 2009, which sets out rules governing the treatment of matters to be treated as though they were loan relationships.

50. Paragraphs 51 and 52 make consequential adjustments to sections 521F (shares becoming or ceasing to be shares to which section 521B applies) and 540 (manufactured interest treated as interest under loan relationship).

Part 2: Derivative Contracts: Amendments of Part 7 of CTA 2009

51. Paragraph 53 introduces amendments to Part 7 of CTA 2009, which sets out rules governing the treatment of derivative contracts.

52. Paragraph 54 amends the overview in section 594 to reflect the changes now being made.

53. Paragraph 55 inserts new section 594A, which sets out the matters in respect of which amounts are to be brought into account for the purposes of Part 7. These were previously contained in section 595, and remain unchanged. The matters are the profits, losses, interest and expenses arising to a company on its derivative contracts.

54. Paragraph 56 makes various changes to section 595, which sets out general principles about the bringing into account of credits and debits. In particular it removes the requirement that credits and debits brought into account should 'fairly represent' profits and gains arising from derivative contracts. It provides a new rule for apportionment of amounts where an accounting period of a company does not coincide with a period of accounts.

55. Paragraph 57 sets out amendments to section 597 concerning amounts recognised in determining a company's profit or loss. It establishes that this is now to be based on amounts recognised in the accounts as items of profit or loss. New subsection (1A) makes clear that

this includes amounts that were previously recognised in other comprehensive income and which are subsequently transferred to profit or loss.

56. Paragraph 59 makes various amendments to section 604, concerning credits and debits that are capitalised in the carrying value of an asset or liability. These serve to clarify that the scope of the provisions is restricted to cases where amounts would not otherwise be brought into account.

Paragraph 60 inserts new section 604A concerning amounts recognised in other comprehensive income and not transferred to profit or loss. This determines the treatment when a derivative contract, or part of a derivative contract, ceases to be recognised in company accounts. Together with new subsection 597(1A) inserted by paragraph 57, this ensures that all amounts recognised as items of other comprehensive income will be brought into account at some point. Subsection (4) provides that these amounts are to be brought into account in the same way as amounts recognised in determining the company's profit or loss for the period, making clear that the amounts are subject to all the provisions of Part 7. Subsections (6) and (7) require that, in assessing amounts recognised in other comprehensive income, it is necessary to follow the accounting treatment in assuming that the accounting policy applied when the derivative contract ceased to be recognised was also applied in earlier periods. But if the accounting treatment applied at that time was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.

57. Paragraph 61 omits section 605 concerning credits and debits recognised in equity. Amounts recognised directly in equity will no longer normally be brought into account under Part 7.

58. Paragraph 62 makes a series of changes to section 606 concerning exchange gains and losses. It clarifies that amounts arising on the retranslation of a business from its functional currency into a different currency are not profits or losses within Part 7. It provides a power to make regulations concerning the exclusion or inclusion of exchange gains and losses with respect to the Part 7 rules.

59. Paragraph 63 omits sections 606A to 606H, which are superseded by the anti-avoidance provisions introduced by paragraph 86.

60. Paragraph 65 inserts new sections 607A, 607B and 607C.

61. New section 607A provides that where, in certain circumstances, a company recognises amounts in its accounts in respect of a derivative contract to which it is not legally a party, it is treated as if it were a party. The section applies where a company has ceased to be, or has yet to become, party to a derivative contract, or where the risks and rewards of a derivative contract have been transferred.

62. New sections 607B and 607C ensure that the rule in section 607A will not lead to, respectively, double relief or double taxation where another company also brings into account debits or credits in respect of the same derivative contract.

63. Paragraph 66 omits section 608 concerning companies ceasing to be party to derivative contracts. These provisions are superseded by new section 607A.
64. Paragraph 67 makes a series of amendments to section 613 concerning adjustments on change of accounting policy. These changes extend the scope of sections 614 and 615 to apply where a company's basis of accounting is altered as a result of the application of tax statute.
65. Paragraph 68 substitutes a new section 614, clarifying rules for determining credits or debits to be brought into account in cases where there is a change of accounting practice involving changes in the tax-adjusted carrying value of a derivative contract.
66. Paragraph 69 amends section 615 concerning changes of accounting policy after a company ceases to be party to a derivative contract. It clarifies the credits or debits to be brought into account and aligns the rules with their equivalents in Part 5. Subsection (5) updates the definition of 'the amount outstanding in respect of the derivative contract' to take account of the changes to section 597 introduced by paragraph 57; the definition now includes amounts recognised in other comprehensive income. New subsections (7) and (8) require that, in assessing any such amounts at the end of the 'earlier period' or the beginning of the 'later period' (as defined in section 613), it is necessary to follow the accounting treatment in assuming that the accounting policy applied in that period was also applied in earlier periods. But if the accounting treatment was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.
67. Paragraphs 70 to 71 and 73 to 80 make a series of consequential amendments to sections 622, 625, 653, 654, 658, 666, 671, 673, 675 and 684. In each case these amendments substitute 'tax-adjusted carrying value' (now defined in section 702) for 'carrying value'.
68. Paragraph 72 omits section 629, which is superseded by the anti-avoidance provisions introduced by paragraph 86.
69. Paragraph 82 amends section 690 concerning derivative contracts held for unallowable purposes. It provides clarification on the scope of the debits that a company may not bring into account in cases where a debit is incorporated within a credit.
70. Paragraph 83 amends section 691 concerning the meaning of 'unallowable purpose'. It ensures that the meaning of 'related transaction' includes, for the purposes of this section, anything which in substance equates to a related transaction.
71. Paragraph 84 makes amendments to section 692, concerning allowance of accumulated net losses, to ensure that debits with an unallowable purpose restricted under section 690 can only be utilised against credits attributable to the same unallowable purpose.
72. Paragraph 85 omits section 698, which is superseded by the anti-avoidance provisions introduced by paragraph 86.

73. Paragraph 86 inserts new sections 698B, 698C and 698D, which counter tax avoidance.

74. New section 698B provides a new anti-avoidance rule to counteract ‘derivative-related tax advantages’ arising from ‘relevant avoidance arrangements’, by way of just and reasonable adjustments to credits and debits under Part 7.

75. New section 698C defines ‘relevant avoidance arrangements’. Subsection (4) excludes from that definition arrangements aimed at obtaining tax advantages which can reasonably be assumed to have been intended under the derivative contracts legislation. Subsection (5) defines a ‘derivative-related tax advantage’ in terms of credits and debits under Part 7.

76. New section 698D gives, in subsection (1), non-exhaustive examples of results which might indicate that the exclusion from the definition of relevant avoidance arrangements in section 698C(4) should not apply. Subsection (2) ensures that the examples in subsection (1) are only relevant to the availability of the section 698C(4) exclusion if it is reasonable to assume that the result in question was not the anticipated outcome when any provisions of Part 7 engaged by the arrangements were enacted.

77. Paragraph 87 substitutes a new section 702, defining ‘tax-adjusted carrying value’. The definition is based on the carrying value in the company’s accounts, adjusted as a result of particular statutory provisions. The references in subsection (6) to section 597 and section 604A ensure that the carrying value is adjusted for amounts recognised as items of other comprehensive income, representing amounts that will be brought into account in the future. Subsections (4) and (5) require that, in determining the tax-adjusted carrying value of a contract, it is necessary to follow the accounting treatment in assuming that the accounting policy applied at the relevant time was also applied in earlier periods. But if the accounting treatment applied at that time was based on some other GAAP-compliant assumption regarding accounting policies followed in earlier periods, that assumption should be followed for tax purposes instead.

Part 3: Amendments to TCGA 1992 relating to loan relationships

78. Paragraph 90 introduces minor amendments to section 151E of Taxation of Chargeable Gains Act 1992 (TCGA), which provides for the Treasury to make regulations concerning exchange gains and losses from loan relationships.

Part 4: Consequential Amendments

79. Part 4 makes a number of consequential changes to CTA 2009 and to FA 2009

Part 5: Commencement and transitional provisions

80. Part 5, introduced by Paragraph 93, contains commencement and transitional provisions.

81. Paragraph 94 sets out the general commencement rule for the amendments made by Parts 1 to 4 of the Schedule.
82. Paragraph 95 disapplies the general rule from the provisions from the exceptions dealt with by paragraphs 96 to 101, and subjects it to the transitional provisions introduced by paragraphs 102 to 114.
83. Paragraphs 96 to 101 set out commencement arrangements for a number of specific provisions, including the substitution of new anti-avoidance rules by paragraphs 45 and 86, which apply to arrangements entered into on or after 1 April 2015.
84. Paragraphs 102 to 105 make transitional provisions concerned with the changes made to section 308 by paragraph 5. They ensure that amounts recognised in other comprehensive income and taxed or relieved in a pre-transition period will not be taxed or relieved again in a post-transition period.
85. Paragraph 102 sets out, in subsection (1), the circumstances in which these transitional provisions apply – that is, where amounts were, in a pre-transition period, recognised in other comprehensive income and brought into account, and would be brought into account again under the amended rules when subsequently transferred into profit or loss in a post-transition period (see paragraph 5) or under the new section 320A (see paragraph 14). Where the provisions do apply, subsection (2) requires an overall transitional adjustment to be made on a just and reasonable basis in accordance with paragraph 103.
86. Paragraph 103 requires credits or debits amounting to the overall transitional adjustment to be brought into account for the relevant accounting periods. The relevant accounting periods are the first accounting period commencing on or after 1 January 2016 and each subsequent period falling wholly or partly within the subsequent five years, referred to as the transitional years. Subsections (5) to (8) specify how the overall transitional adjustment is to be allocated between the transitional years.
87. Paragraph 104 excludes from the transitional arrangements any amounts brought into account in accordance with regulations made under section 328 CTA 2009, concerned with exchange gains and losses.
88. Paragraph 105 requires any transitional adjustment under paragraphs 102 and 103 to be applied before calculating any credits or debits arising in accordance with section 316 CTA 2009.
89. Paragraph 106 provides that, where a company ceases to be within the scope of corporation tax or starts to be wound up during the five transitional years, any remaining transitional amounts are to be brought into account at that time.
90. Paragraphs 107 to 111 apply to derivative contracts and mirror the provisions introduced by Paragraphs 102 to 106.

91. Paragraph 112 requires accounting periods straddling 1 January 2016 to be split for the purposes of new subsection 328(2B), inserted by paragraph 20(3), and new subsection 606(2B), inserted by paragraph 62(3).

92. Paragraph 113 is concerned with a situation where credits or debits were not brought into account in a pre-transition period in compliance with the requirements of subsection 307(3) CTA 2009, now repealed by paragraph 4(4). Subsection 307(3) requires that amounts brought into account should 'fairly represent' the profits, losses, interest and expenses arising from a company's loan relationships. Where the paragraph applies, no credit or debit is to be brought into account in a post-transition period in the event of a reversal of the excluded amount.

93. Paragraph 114 replicates the rule introduced by paragraph 113 in the case of derivative contracts and amounts excluded under section 595(3), now repealed by paragraph 56(4).

94. Paragraph 115 is concerned with a situation where credits or debits relating to a fixed capital asset or project were brought into account in a pre-transition period in accordance with section 320 CTA 2009. In such a case, the paragraph ensures that credits and debits in respect of that asset or project will continue to be taken into account in future periods by deeming the condition in subsection 320(1)(c) to be met.

95. Paragraph 116 replicates the rule introduced by paragraph 115 in the case of derivative contracts and amounts brought into account under section 604 CTA 2009.

BACKGROUND NOTE

96. At Budget 2013, the Government announced a review of the corporation tax rules governing corporate debt (or 'loan relationships') and derivative contracts, with a view to including the bulk of the resulting legislation in Finance Bill 2015. There was consultation on a wide-ranging package of measures to update and simplify these regimes and to reduce their susceptibility to tax avoidance.

97. The rules for the taxation of loan relationships, now contained in Part 5 of CTA 2009, date from 1996. A similar but standalone regime for derivative contracts, contained in Part 7, was introduced in 2002. Parts 5 and 7 are based on the concept of deriving taxable profits and losses on these instruments from accounting entries. They do however incorporate some highly complex features, particularly around debt held between connected companies and within groups. The Government has in the past received frequent adverse comment on the complexity of the current rules. The regimes for both loan relationships and derivative contracts have developed significantly over time, evolving in response to emerging avoidance risks and to changes in commercial and accounting practice.

98. Accountancy standards, on which the tax rules are based, have not remained static. Standard setters for both UK GAAP and International Financial Reporting Standards (IFRS) have made significant changes to the accounting treatment of financial instruments. New UK

GAAP and IFRS standards have recently been issued (including IFRS 9 in 2014) which will be adopted over coming years, and which should cement the accounting treatment of financial instruments for some time to come.

99. Historically, the complexity in the loan relationships and derivative contracts regimes has provided repeated opportunities for attempts to avoid tax. Reactive measures to counter this avoidance have contributed to further complexity and to some loss of structural clarity in the regime, tending to leave further potential loopholes. This growing complexity has increased compliance costs for some businesses and has made it difficult in some cases for compliant groups and companies to be certain about tax treatments.

100. The changes now being made address areas which have given difficulty in the past, reduce complexity and provide enhanced protection against tax avoidance, while retaining the fundamental structure and principles of the regimes.

101. If you have any questions about this change, or comments on the legislation, please contact Andy Stewardson on 03000 586085 (email: andy.stewardson@hmrc.gsi.gov.uk).

EXPLANATORY NOTE

ELECTION OF DESIGNATED CURRENCY BY UK INVESTMENT COMPANY

SUMMARY

1. Clause [X] makes amendments to Chapter 4 of Part 2 of Corporation Tax Act 2010 (CTA 2010), concerned with the currency to be used in tax calculations. The changes will take effect for accounting periods commencing on or after 1 January 2016.

DETAILS OF THE CLAUSE

2. Subsection (2) introduces amendments to section 9A CTA 2010.
3. Subsection (3) substitutes new subsection 9A(2). This provides that an election for a particular designated currency only takes effect if the company is a UK resident investment company and the relevant conditions are satisfied at the time when the election is to take effect.
4. Subsection (4) omits subsection 9A(3) as a consequential change.
5. Subsection (5) inserts a new subsection 9A(9). This clarifies that the effect of a designated currency election is that profits and losses are calculated as if the designated currency of the company were its functional currency.
6. Subsections (6) to (10) make a number of consequential changes to section 9B.
7. Subsection (11) inserts a new subsection 9B(6A). This provides that ceasing to be a UK resident investment company constitutes a revocation event. The designated currency election will cease to have effect from the date of the revocation event.
8. Subsections (14) to (17) provide that the changes made by the clause have effect for periods of account beginning on or after 1 January 2016. Where a period of account straddles 1 January 2016, it is to be split, with a new period of account being deemed to commence on that date for the purposes of the clause. Accounts for the two deemed periods are assumed to have been prepared on the same basis as the actual accounts for the straddling period.

BACKGROUND NOTE

9. At Budget 2013, the Government announced a review of the corporation tax rules in Parts 5 and 7 of Corporation Tax Act 2009 (CTA 2009) governing corporate debt (or 'loan relationships') and derivative contracts, with a view to including the bulk of the resulting

legislation in Finance Bill 2015. There was consultation on a wide-ranging package of measures to update and simplify these regimes and to reduce their susceptibility to tax avoidance. The changes made by this clause arise out of that review.

10. The rules in Parts 5 and 7 include provisions for the treatment of exchange gains and losses arising from loan relationships, money debts and derivative contracts. However, these depend on rules in chapter 4 of Part 2 CTA 2010 for determining the currency in which a company's profits are calculated for the purposes of corporation tax. These currency rules are therefore being updated alongside changes to Parts 5 and 7 of CTA 2009.

11. If you have any questions about this change, or comments on the legislation, please contact Richard Daniel on 03000 569408 (email: richard.daniel@hmrc.gsi.gov.uk).