
STATUTORY INSTRUMENTS

2009 No. 1886

**The Loan Relationships and Derivative Contracts
(Disregard and Bringing into Account of Profits
and Losses) (Amendment) Regulations 2009**

Insertion of regulation 7A

5. After regulation 7 of the 2004 Regulations, insert—

“Exchange gains or losses arising from derivative contracts hedging anticipated or future proceeds from certain issues of shares

7A.—(1) For the purposes of section 598(1)(a) of the Corporation Tax Act 2009⁽¹⁾, an exchange gain or loss arising to a company is an excluded amount in an accounting period in relation to a derivative contract if—

- (a) the underlying subject matter of the contract consists wholly of currency; and
- (b) there is a relevant hedging relationship within the meaning of paragraph (2).

(2) There is a relevant hedging relationship between a derivative contract (or part of a derivative contract) and the anticipated or future proceeds of an announced or proposed rights issue or open offer of shares (“relevant share issue”) if, and to the extent that—

- (a) the contract (or part of the contract) is intended to hedge the economic risk to future capital raised under the relevant share issue (“the hedged item”); and
- (b) the economic risk is attributable to fluctuations in exchange rates between the currency in which the relevant share issue is denominated and the company’s functional currency.

(3) If there is a hedging relationship between part of a currency contract and a hedged item, the part of the fair value profit or loss that is an excluded amount is the part which bears to the whole the proportion which the value of that part of the contract which is in the hedging relationship bears to the value of the whole contract

(4) Paragraph (1) shall not apply to a derivative contract which is entered into with a person (“person A”) to whom the company is connected unless—

- (a) a person who is connected to the company enters into a derivative contract with a person who is not connected with the company; and
- (b) that contract confers rights or imposes liabilities which are equivalent to those of A under the contract which A entered with the company.

(5) Section 466 of the Corporation Tax Act 2009 (companies connected for an accounting period) applies for the purposes of paragraph (4).

(6) A derivative contract to which this regulation applies may act as a hedge of the anticipated or future proceeds from a relevant share issue only to the extent that the value of the obligation under the derivative contract (within the meaning of regulation 4(5)) does

not exceed the anticipated or future proceeds from the relevant share issue which, but for the derivative contract, would not be hedged.

(7) Subsections (3) and (4) of section 606 of the Corporation Tax Act 2009 do not apply to any exchange gain or loss which is an excluded amount by virtue of paragraph (1).

(8) In this regulation—

- (a) “functional currency”, in relation to a company, means the currency of the primary economic environment in which the company operates; and
- (b) “rights issue or open offer of shares” means an offer or invitation to existing shareholders to subscribe for or purchase further shares in proportion to (or as nearly as may be in proportion to) their current holdings.”.