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STATUTORY INSTRUMENTS

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**2014 No. 3188**

**The Loan Relationships and Derivative Contracts  
(Disregard and Bringing into Account of Profits  
and Losses) (Amendment) Regulations 2014**

**Derivative contracts**

6. For regulation 6 substitute—

**“Application of regulations 7, 8 and 9 in relation to derivative contracts where fair value accounting applies**

6.—(1) Regulation 7, 8 or 9 apply in relation to a derivative contract (which satisfies the conditions in regulation 7(1)(a), 8(1)(a) or 9(1), as the case may be) if—

- (a) an election under regulation 6A has effect in relation to the contract,
- (b) the contract or part of the contract is a designated fair value hedge,
- (c) the hedged item is a loan relationship in relation to which the company uses fair value accounting, or
- (d) the contract forms part of an arrangement the main purpose, or one of the main purposes, of which is to obtain a tax advantage in relation to that contract that would not arise if regulation 7, 8 or 9 applies.

(2) In paragraph (1)(d)—

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“tax advantage” has the meaning given in section 1139 of CTA 2010(1).

**Election to apply regulations 7, 8 or 9**

6A.—(1) An election for the purposes of regulation 6(1)(a) must be made by a company by notice in writing to an officer of Revenue and Customs and applies regulations 7, 8 and 9 unless the notice states which of those regulations apply to the company’s derivative contracts.

(2) The election has effect—

- (a) in the case of a new adopter where the election is made on or before the later of the dates set out in paragraph (3), in relation to derivative contracts held in the first relevant period and any subsequent period, and
- (b) in any other case, in relation to derivative contracts entered into on or after a date specified in the election which must be later than the date the election is made, and in the case of a new adopter cannot be before two years after the end of the first relevant period.

- (3) The dates referred to in paragraph (2)(a) are—
- (a) the date six months after the start of the first relevant period,
  - (b) the date six months after the date the company first enters into a relevant derivative contract in relation to which the company uses fair value accounting, and
  - (c) in the case of a company which is not a qualifying company for the purposes of Schedule 46 to the Finance Act 2009<sup>(2)</sup>, the date 12 months after the end of the first relevant period.
- (4) An election may be amended or revoked by notice in writing to an officer of Revenue and Customs—
- (a) in the case of an election made by a new adopter within paragraph (2)(a), before the later of the applicable dates set out in paragraph (3), or
  - (b) in any other case—
    - (i) before the election has effect, or
    - (ii) after the election has effect, in relation to derivative contracts entered into on or after a date specified in the notice which must be later than the date the notice is given, and in the case of a new adopter cannot be before two years after the end of the first relevant period.
- (5) For the purposes of this regulation—
- (a) a “new adopter” is a company which adopts fair value accounting for the first time on or after 1 January 2015 in relation to a relevant derivative contract,
  - (b) “the first relevant period” is the first accounting period in which a company uses fair value accounting in relation to a relevant derivative contract,
  - (c) a “relevant derivative contract” is a derivative contract which satisfies the conditions in regulation 7(1)(a), 8(1)(a) or 9(1).

### **Effect of elections on transfers within groups**

**6B.**—(1) If a derivative contract, in relation to which regulation 7, 8 or 9 applies, is transferred by a company in circumstances in which section 625 of CTA 2009 would apply but for section 628 of that Act—

- (a) section 628 does not apply (and accordingly section 625 applies),
- (b) regulation 7, 8 or 9, as the case may be, applies for the purposes of determining the carrying value of the contract for the purposes of section 702 of CTA 2009 as those regulations apply for the purposes of determining the debits and credits to be brought into account under Part 7 of that Act, and
- (c) regulation 7, 8 or 9, as the case may be, applies in respect of that contract in relation to the transferee.

(2) If a derivative contract, in relation to which no election under regulation 6A has effect, is transferred by a company in circumstances in which section 625 of CTA 2009 applies or would apply but for section 628 of that Act, any election made by the transferee company under regulation 6A has no effect in relation to that contract.”

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(2) 2009 c. 10, “qualifying company” is defined in paragraph 15 of Schedule 46.