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STATUTORY INSTRUMENTS

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**2001 No. 3629**

**FINANCIAL SERVICES AND MARKETS**

**The Financial Services and Markets Act 2000  
(Consequential Amendments) (Taxes) Order 2001**

<i>Made</i>	- - - -	<i>8th November 2001</i>
<i>Laid before Parliament</i>		<i>8th November 2001</i>
<i>Coming into force</i>	- -	<i>1st December 2001</i>

The Treasury, in exercise of the powers conferred upon them by sections 426 to 428 of the Financial Services and Markets Act 2000(1), hereby make the following Order:

**PART 1**  
**INTRODUCTORY**

**Citation and commencement**

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001.

(2) Subject to any express provision as to the effect of the provisions of this Order—

- (a) Parts 1 and 2 shall come into force on 1st December 2001 immediately after the coming into force of sections 411 and 432(1) of, and Schedule 20 to, the Financial Services and Markets Act 2000;
- (b) Part 3 shall come into force on 1st December 2001 immediately after the coming into force of Parts 1 and 2 of this Order.

**Interpretation**

2. In this Order—

“chargeable securities” has the meaning given by section 99(3) to (12) of the Finance Act 1986(2);

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(1) 2000 c. 8.

(2) 1986 c. 41. Section 99(3) to (12) was relevantly amended by section 144(2), (4) and (5) of the Finance Act 1988 (c. 39), section 113(2) and (3) of the Finance Act 1990 (c. 29), section 196(5) of the Finance Act 1996 (c. 8), section 151(5) of the Finance Act 1998 (c. 36), and section 118(2) and (4) of, and paragraph 12 of Schedule 19 to, the Finance Act 1999 (c. 16).

“instrument” has the meaning given by section 122(1) of the Stamp Act 1891(3);  
“period of account” has the meaning given by section 834(1) of the Income and Corporation Taxes Act 1988(4).

## PART 2

### AMENDMENTS TO PRIMARY LEGISLATION

#### *The Taxes Management Act 1970 (c. 9)*

##### **Returns and other information: stock jobbers' transactions**

3. In section 21(7) of the Taxes Management Act 1970(5) in the definition of “broker” for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

#### *The Finance Act 1970 (c. 24)*

##### **Composition agreements in relation to stamp duty**

4.—(1) Amend section 33 of the Finance Act 1970(6) (composition agreements by certain bodies in relation to stamp duty chargeable on transfers of securities) as follows.

(2) In subsection (1)—

(a) for “recognised stock exchange” in the first place where it occurs substitute “recognised investment exchange or recognised clearing house”;

(b) omit the definition of “recognised stock exchange”.

(3) In subsections (2)(b), (c) and (d), (4) and (5) for “stock exchange” substitute “recognised investment exchange or recognised clearing house”.

(4) After subsection (6) add—

“(7) In this section “recognised investment exchange” and “recognised clearing house” have the meanings given by section 285(1) of the Financial Services and Markets Act 2000.”.

#### *The Inheritance Tax Act 1984 (c. 51)*

##### **Settled property: qualifying interests in possession**

5.—(1) Amend section 59 of the Inheritance Tax Act 1984 (conditions to be met in relation to qualifying interests in possession)(7) as follows.

(2) In subsection (3)(b) for the words from “either” to the end substitute

“has permission—

(i) under Part 4 of the Financial Services and Markets Act 2000, or

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(3) 1891 c. 39.

(4) 1988 c. 1.

(5) Section 21(7) was substituted by paragraph 14(8) of Schedule 10 to the Finance Act 1997 (c. 16).

(6) Section 33 was relevantly amended by paragraph 5 of Schedule 14 to the Finance Act 1999.

(7) Section 59 was relevantly amended by section 52(4) of the Finance Act 1995 (c. 4).

- (ii) under paragraph 15 of Schedule 3 to that Act<sup>(8)</sup> (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule),  
to effect or carry out contracts of long-term insurance.”.
- (3) After subsection (3) add—
- “<sup>(4)</sup> In subsection (3)(b) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(9)</sup>.”.
- (4) This Article has effect in relation to the making, on an anniversary or other occasion on or after 1st December 2001, of any charge to tax under section 64 or 65 of the Inheritance Tax Act 1984.

*The Finance Act 1986 (c. 41)*

**Introduction**

6. Amend the Finance Act 1986 in accordance with Articles 7 to 12.

**Stamp duty: intermediaries**

- 7.—(1) Amend section 80B(2) (intermediaries: provisions supplementary to section 80A)<sup>(10)</sup> as follows.
- (2) In the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”.
- (3) For the definition of “insurance business” substitute—
- ““insurance business” means business which consists of the effecting or carrying out of contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given in Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- “the operator”, in relation to a collective investment scheme, shall be construed in accordance with section 237(2) of the Financial Services and Markets Act 2000;”.
- (4) For the definition of “trustee” and “the operator” substitute—
- ““trustee”, in relation to a collective investment scheme, means a trustee or a depository within the meaning given in section 237(2) of the Financial Services and Markets Act 2000.”.
- (5) This Article has effect in relation to any instrument executed on or after 1st December 2001.

**Stamp duty: interpretation of sections 81, 82 and 84**

- 8.—(1) Amend section 85(5) of the Finance Act 1986 (supplementary provisions) as follows.
- (2) In paragraph (b) for “of the Financial Services Act 1986” substitute “given by section 285(1) (a) of the Financial Services and Markets Act 2000”.
- (3) In paragraph (c) for “of the Financial Services Act 1986” substitute “given by section 285(1) (b) of the Financial Services and Markets Act 2000”.
- (4) This Article has effect in relation to any instrument executed on or after 1st December 2001.

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<sup>(8)</sup> Schedule 3 was amended by regulation 8 of S.I. 2000/2952.

<sup>(9)</sup> S.I. 2001/544.

<sup>(10)</sup> Section 80B was inserted, together with section 80A, by section 97(1) of the Finance Act 1997.

### **Stamp duty reserve tax: intermediaries**

9.—(1) Amend section 88B(2) (provisions supplementary to section 88A)(11) as follows.

(2) In the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”.

(3) For the definition of “insurance business” substitute—

““insurance business” means business which consists of the effecting or carrying out of contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“the operator”, in relation to a collective investment scheme, shall be construed in accordance with section 237(2) of the Financial Services and Markets Act 2000;”.

(4) For the definition of “trustee” and “the operator” substitute—

““trustee”, in relation to a collective investment scheme, means a trustee or a depository within the meaning given in section 237(2) of the Financial Services and Markets Act 2000.”.

(5) This Article has effect in relation to—

- (a) an agreement to transfer chargeable securities which is not conditional, if the agreement is made on or after 1st December 2001;
- (b) a conditional agreement to transfer such securities, if the condition is satisfied on or after that date.

### **Stamp duty reserve tax: interpretation**

10.—(1) In section 99(5B) (interpretation)(12) for the words from “In this subsection” to the end substitute “In this subsection “an authorised unit trust scheme”, “collective investment scheme” and “an open-ended investment company” have the same meanings as in Part 17 of the Financial Services and Markets Act 2000.”.

(2) This Article has effect in relation to—

- (a) an agreement to transfer chargeable securities which is not conditional, if the agreement is made on or after 1st December 2001;
- (b) a conditional agreement to transfer such securities, if the condition is satisfied on or after that date.

### **Inheritance tax: power to amend definitions of “market maker”**

11. In sections 106(4)(a) and 107(4)(a) (power to amend sections 105(7) and 234(4) of the Inheritance Tax Act 1984) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

### **Power to modify section 21 of the Taxes Management Act 1970: definition of recognised investment exchange**

12. In paragraph 10(2) of Schedule 18 (definition of recognised investment exchange) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

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(11) Section 88B was inserted, together with section 88A, by section 102(1) of the Finance Act 1997.

(12) Subsection (5B), together with subsection (5A), of section 99 was inserted by paragraph 12(3) of Schedule 19 to the Finance Act 1999.

*The Income and Corporation Taxes Act 1988 (c. 1)*

**Introduction**

**13.** Amend the Income and Corporation Taxes Act 1988 in accordance with Articles 14 to 52.

**Transfers of insurance business**

**14.**—(1) Amend section 12 (basis of, and periods for, assessment)(**13**), as follows.

(2) In subsection (7A) for the words from “there” to “1982” substitute “an insurance business transfer scheme has effect to transfer from a company to another person business which consists of the effecting or carrying out of contracts of long-term insurance”.

(3) After subsection (7A) insert—

“(7B) In subsection (7A) above—

“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and

“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000 and—

(a) includes an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, but

(b) does not include a scheme for the transfer of business carried on by one or members or former underwriting members of Lloyd's.”.

(4) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

**Insurance business: application of sections 43A to 43E of the Taxes Act**

**15.**—(1) In section 43F(1) (insurance business)(**14**) for “Part II of the Insurance Companies Act 1982(**15**)” substitute “Chapter 9 of the Prudential Sourcebook (Insurers)”.

(2) This Article has effect in relation to periods of account ending on or after 1st December 2001.

**Tax treatment of levies and repayments**

**16.**—(1) Omit section 76(7) and (7A) (expenses of management: insurance companies)(**16**).

(2) Amend section 76A (levies and repayments under the Financial Services and Markets Act 2000)(**17**) in accordance with paragraphs (3) to (5) below.

(3) For subsection (2) substitute—

“(2) “Levy” means—

(a) a payment required under rules made under section 136(2) of the Financial Services and Markets Act 2000 (“the Act of 2000”);

(b) a levy imposed under the Financial Services Compensation Scheme;

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(13) Section 12 was relevantly amended by paragraph 3 of Schedule 9 to the Finance Act 1990 and paragraph 1(1) and (2)(a) of Schedule 9 to the Finance Act 1995.

(14) Section 43F was inserted, together with sections 43A to 43E and 43G, by section 110 of the Finance Act 2000 (c. 17).

(15) 1982 c. 50.

(16) Section 76(7) and (7A) was substituted by section 411(1) of the Financial Services and Markets Act 2000.

(17) Section 76A was inserted, together with section 76B, by section 411(2) of the Financial Services and Markets Act 2000.

- (c) a payment required under rules made under section 234 of the Act of 2000;
  - (d) a payment required under scheme rules in accordance with paragraph 15(1) of Schedule 17 to the Act of 2000;
  - (e) a payment required in accordance with the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000 other than an award which is not an award of costs under cost rules.”.
- (4) For subsection (3) substitute—
- “(3) “Repayment provision” means—
- (a) any provision made by virtue of section 136(7) or 214(1)(e) of the Act of 2000;
  - (b) any provision by scheme rules for fees to be refunded in specified circumstances.”.
- (5) After subsection (4) add—
- “(5) “Scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to the Act of 2000.
- (6) “Costs rules” means—
- (a) rules made under section 230 of the Act of 2000;
  - (b) provision relating to costs contained in the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000.”.
- (6) Amend section 76B (levies and repayments under the Financial Services and Markets Act 2000: investment companies) in accordance with paragraphs (7) and (8) below.
- (7) In subsection (3) for “76(7A)” substitute “76A(2)”.
- (8) For subsection (4) substitute—
- “(4) “Costs rules” has the meaning given in section 76A(6).”.

#### **PAYE: readily convertible assets**

- 17.**—(1) Amend section 203F (PAYE: readily convertible assets)(**18**) as follows.
- (2) In subsection (2)(a) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.
- (3) In subsection (5) for the words from “right” to the end substitute “investment of a kind specified in Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

#### **Relief on life assurance premiums**

- 18.**—(1) Amend section 266 (relief on life assurance premiums)(**19**) as follows.
- (2) In subsection (2)(a) for sub-paragraphs (i) to (iii) substitute—
- “(i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 or under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance; or
  - (ii) a member of the Society who effects or carries out contracts of long-term insurance in accordance with Part 19 of the Financial Services and Markets Act 2000;”.
- (3) After subsection (13) add—

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**(18)** Section 203F was inserted by section 127 of the Finance Act 1994 (c. 9) and was relevantly amended by section 65(4) of the Finance Act 1998.

**(19)** Section 266 was relevantly amended by paragraph 2(3) of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).

“(14) In subsection (2)(a)—

“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and

“member of the society” has the same meaning as in Lloyd’s Act 1982(20).”.

### **Interest under contractual savings schemes**

**19.**—(1) Amend section 326 (interest etc. under contractual savings schemes)(21) as follows.

(2) In subsections (1)(c), (2), (4) and (6)(a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b)(22)”.

(3) In subsections (7)(a) and (8)(a) after “society” insert “, person”.

### **Tax-exempt special savings accounts**

**20.**—(1) Amend section 326A (tax-exempt special savings accounts)(23) in accordance with paragraphs (2) to (5) below.

(2) In subsection (4) for the words “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b)”.

(3) In subsection (5) after “society” insert “, person”.

(4) In subsection (9) after “society” insert “, person”.

(5) For subsection (10) substitute—

“(10) In this section “relevant European institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”

(6) In section 326B(3) (loss of exemption for special savings accounts) after “society” insert “, person”.

(7) In section 326C(1) (power of Board to make supplementary regulations in relation to tax-exempt special savings accounts)(24)—

(a) in paragraphs (b), (c) and (cd) after “and other” insert “persons and”;

(b) in paragraphs (cc) and (d) after “building society” insert “, person”.

### **Personal equity plans: tax representatives**

**21.**—(1) Amend section 333A (personal equity plans: tax representatives)(25) as follows.

(2) In subsection (11) for paragraph (a) substitute—

“(a) “European institution” means an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000 which is an

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(20) 1982 c. xiv.

(21) Section 326 was relevantly amended by section 29 of, and paragraph 5 of Schedule 14 to, the Finance Act 1990 and paragraphs 2, 3, 4 and 5 of Schedule 12 to the Finance Act 1995.

(22) Section 840A was inserted by paragraph 1(1) of Schedule 37 to the Finance Act 1996 and subsection (1)(b) of that section is relevantly amended by Article 46 of this Order.

(23) Section 326A was inserted, together with sections 326B and 326C, by section 28(1) of the Finance Act 1990 and relevantly amended by section 63(2) and (3) of the Finance Act 1995.

(24) Section 326C was relevantly amended by section 62(3) of the Finance Act 1995.

(25) Section 333A was inserted by section 64(1) of the Finance Act 1995.

authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule;”.

(3) In subsection (12) for the words from “a person” to the end substitute “ a firm which is an authorised person for the purposes of the Financial Services and Markets Act 2000 as a result of qualifying for authorisation under paragraph 2 of Schedule 4 to that Act.”.

### **Involvement of insurance companies with plans and accounts**

**22.** In section 333B(9) (involvement of insurance companies with plans and accounts)(**26**) for the definition of “insurance company” substitute—

““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

### **Mortgage interest relief: qualifying lenders**

**23.**—(1) Amend section 376 (qualifying borrowers and qualifying lenders)(**27**) as follows.

(2) In subsection (4)—

(a) for paragraph (e) substitute—

“(e) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;”;

(b) omit paragraph (g);

(c) for paragraph (p) substitute—

“(p) any body which is for the time being registered under section 376A.”.

(3) Omit subsection (4A).

### **Mortgage interest relief: register of qualifying lenders**

**24.** In section 376A (the register of qualifying lenders)(**28**) after subsection (1) insert—

“(1A) The following are entitled to be registered—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000—

(i) to accept deposits; or

(ii) to effect or carry out contracts of general insurance;

(b) a 90 per cent subsidiary of a person mentioned in—

(i) section 376(4)(e); or

(ii) paragraph (a) above;

(c) any other body whose activities and objects appear to the Board to qualify it for registration.”.

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(26) Section 333B was inserted by section 77 of the Finance Act 1998.

(27) Section 376 was relevantly amended by paragraph 3 of Schedule 9 to the Finance (No. 2) Act 1992 and section 142 (1)(a) of the Finance Act 1994.

(28) Section 376A was inserted by section 142(2) of the Finance Act 1994.



### **Mortgage interest relief: interpretation**

**25.** In section 379 (interpretation of sections 369 to 378) before the definition of “prescribed” insert—

““contracts of general insurance” means contracts which fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contracts of long-term insurance” means contracts which fall within Part II of that Schedule;”.

### **Interpretative provisions relating to insurance companies**

**26.**—(1) Amend section 431(2) (interpretative provisions relating to insurance companies)(**29**) as follows.

(2) After the definition of “closing liabilities” insert—

““contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contract of long-term insurance” means any contract which falls within Part II of Schedule 1 to that Order;”.

(3) For the definition of “insurance company” substitute—

““insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—
  - (i) carries on business which consists of the effecting or carrying out of contracts of insurance, and
  - (ii) carries on that business through a branch or agency in the United Kingdom;”.

(4) In the definition of “liabilities” for the words from “liabilities of” to the end substitute “long-term liabilities of the company determined for the purposes of the company’s periodical return on actuarial principles in accordance with section 5.6 of the Prudential Sourcebook (Insurers) (excluding any that have been reinsured);”.

(5) For the definition of “long term business” substitute—

““long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;”.

(6) After the definition of “long term business fund” insert—

““long-term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long-term business (including liabilities arising from deposit back arrangements within the meaning given by section 11.1 of the Prudential Sourcebook (Insurers));”.

(7) In the definition of “periodical return” for “Treasury under Part II of the Insurance Companies Act 1982” substitute “Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)”.

(8) After the definition of “periodical return” insert—

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(29) Section 431(2) was relevantly amended by paragraph 1(2)(b) of Schedule 6 to the Finance Act 1990, section 52(1) of the Finance Act 1995 and paragraph 114 of the Schedule to S.I. [1997/2781](#).

““the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000(30);”.

(9) The amendments made by paragraphs (3), (6) and (7) above have effect in relation to periods of account ending on or after 1st December 2001.

### **Power to amend the Tax Acts so far as relating to insurance companies**

**27.** In section 431A (power of Treasury to amend provisions of the Tax Acts relating to insurance companies)(31) for the “Insurance Companies Act 1982” substitute “Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies,”.

### **Transfer of assets etc.**

**28.—**(1) In section 440(2) (transfer of assets of insurance company)(32) for paragraph (a) substitute—

“(a) an asset is acquired by a company as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person (“the transferor”) to the company, and”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Effect of transfer of insurance business**

**29.—**(1) In section 444A (effect of transfer of long-term insurance business)(33) for subsection (1) substitute—

“(1) Subject to subsection (7) below, this section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Equalisation reserves**

**30.—**(1) Except as provided in paragraph (4) below, in sections 444BA to 444BD (equalisation reserves)(34) for “section 34A regulations” in each place where it occurs substitute “equalisation reserve rules”.

(2) Amend section 444BA in accordance with paragraphs (3) and (4) below.

(3) In subsection (10) for “the regulations” substitute “the rules”.

(4) For subsection (11) substitute—

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(30) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

(31) Section 431A was inserted by paragraph 2 of Schedule 6 to the Finance Act 1990.

(32) Section 440(2) was amended by paragraph 1(1) and (2)(b) of Schedule 9 to the Finance Act 1995.

(33) Section 444A was inserted by paragraph 4 of Schedule 9 to the Finance Act 1990 and was relevantly amended by paragraph 1(1) and (2)(b) of Schedule 9 to the Finance Act 1995.

(34) Sections 444BA to 444BD were inserted by paragraph 1 of Schedule 32 to the Finance Act 1996.

“(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in Chapter 6 of the Prudential Sourcebook (Insurers).”

(5) In section 444BC(1) for “17 of the Insurance Companies Act 1982” substitute “9.3 of the Prudential Sourcebook (Insurers)”.

(6) Amend section 444BD in accordance with paragraphs (7) and (8) below.

(7) In subsection (2)(a) for sub-paragraphs (i) and (ii) substitute—

“(i) by an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or

(ii) by a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or

(iii) in respect of any business which consists of the effecting or carrying out of contracts of insurance and which is carried on outside the United Kingdom by a company resident in the United Kingdom;”.

(8) In subsection (7)—

(a) for the definition of “credit insurance business” substitute—

““credit insurance business” means business which consists of the effecting or carrying out of contracts of insurance against risks of loss to the persons insured arising from—

(a) the insolvency of debtors of theirs, or

(b) from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due;”;

(b) omit the definition of “EC company” and the word “and” immediately before it.

(9) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Capital redemption business**

**31.** In section 458(3) (capital redemption business)(**35**) for paragraphs (a) and (b) substitute—

“(a) consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts of insurance under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period; and

(b) is not life assurance business.”.

### **Friendly societies: exemption from tax in respect of life or endowment business**

**32.**—(1) Amend section 460 (friendly societies: exemption from tax in respect of life or endowment business)(**36**) as follows.

(2) In subsection (10A) for the words from the beginning to “1982” substitute “Where at any time an insurance business transfer scheme has effect to transfer to a friendly society long-term business,”.

(3) After subsection (10A) insert—

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**(35)** Section 458(3) was amended by paragraph 2 of Schedule 33 to the Finance Act 1996.

**(36)** Section 460 was relevantly amended by paragraph 6 of Schedule 9 to the Finance Act 1990, paragraph 5(5) of Schedule 9 to the Finance (No. 2) Act 1992 and paragraph 1(1) and (2)(c) of Schedule 9 to the Finance Act 1995.

“(10B) In subsection (10A) “insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.”.

(4) In subsection (11)—

- (a) omit “by virtue of section 84 of the Friendly Societies Act 1974<sup>(37)</sup> or”;
- (b) for “either of those Acts” substitute “that Act”.

(5) The amendments made by paragraphs (2) and (3) above have effect in relation to any scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Taxation in respect of other business**

**33.**—(1) Amend section 461 (taxation in respect of other business)<sup>(38)</sup> as follows.

(2) In subsection (2)—

- (a) in paragraphs (a) and (b) for “registrar” substitute “Board”;
- (b) for “(8)” substitute “(7)”.

(3) In subsection (4)(a)—

- (a) omit “by virtue of section 84 of the Friendly Societies Act 1974 or”;
- (b) for “either of those Acts” substitute “that Act”.

(4) In subsection (6)—

- (a) in paragraphs (a) and (b) for “the Commission” substitute “the Board”;
- (b) for the words immediately after paragraph (b) substitute “the Board may give a direction to the society under subsection (7) below.”.

(5) For subsections (7) to (9) substitute—

“(7) A direction under this subsection is that (and has the effect that) the society to which it is given is to be treated for the purposes of this Act as a society registered after 31st May 1973 with respect to business carried on after the date of the direction.

(8) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—

- (a) it has not begun to carry on business as mentioned in subsection (6)(a) above; or
- (b) the direction is not necessary for the protection of the revenue.

(9) If a registered friendly society in respect of which a direction is in force under subsection (7) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a society registered after 31st May 1973.”.

(6) After subsection (10) add—

“(11) For the purposes of this section and section 461C—

- (a) any group of persons which was approved for the purposes of this section (as mentioned in subsection (2)(a) above) immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date;

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<sup>(37)</sup> 1974 c. 46.

<sup>(38)</sup> Section 461 was amended by paragraph 10 of Schedule 21, and Part 1 of Schedule 22, to the Friendly Societies Act 1992 and paragraph 6 of Schedule 9 to the Finance (No. 2) Act 1992.

- (b) any greater amount which was authorised for the purposes of this section (as mentioned in subsection (2)(b) above) immediately before 1st December 2001 shall be treated as having been authorised for the purposes of this section by the Board on that date; and
- (c) where a direction that subsection (2) above applies to a society was in force immediately before 1st December 2001, a direction in relation to that society shall be treated as having been made under subsection (7) above by the Board on that date.”.

### **Taxation in respect of other business: incorporated friendly societies qualifying for exemption**

**34.**—(1) Amend section 461A (taxation in respect of other business: incorporated friendly societies qualifying for exemption)(**39**) as follows.

- (2) In subsection (2) for “Friendly Societies Commission” substitute “Board”.
- (3) After subsection (3) add—

“(4) For the purposes of this section and section 461C, any group of persons which was approved for the purposes of this section (as mentioned in subsection (2) above) by the Friendly Societies Commission immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date.”.

### **Taxation in respect of other business: incorporated friendly societies etc.**

**35.** In section 461B(4)(b) (taxation in respect of other business: incorporated friendly societies etc.) for “(8)” substitute “(7)”.

### **Taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society**

**36.**—(1) Amend section 461C (taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society) as follows.

- (2) In subsection (1)—
  - (a) for “to (5)” substitute “and (4)”;
  - (b) in paragraph (b) for “Friendly Societies Commission” substitute “Board”.
- (3) In subsection (2)—
  - (a) for “to (5)” substitute “and (4)”;
  - (b) in paragraph (a) for “Friendly Societies Commission” substitute “Board”.
- (4) In subsection (3)—
  - (a) for “Commission” in the first two places where it occurs substitute “Board”;
  - (b) for the words from “serve a notice” to the end substitute “give a direction to the society under subsection (4) below.”.
- (5) For subsections (4) to (7) substitute—

“(4) A direction under this subsection is that (and has the effect that) the society to which it is given shall cease to be a qualifying society as from the date of the direction.

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(39) Sections 461A was inserted, together with sections 461B and 461C, by paragraph 7 of Schedule 22 to the Finance (No. 2) Act 1992.

- (5) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
- (a) it has not begun to carry on business as mentioned in subsection (1) above;
  - (b) subsections (3) and (4) above do not apply to it by reason of subsection (2) above; or
  - (c) the direction is not necessary for the protection of the revenue.”.

### **Interpretation of Chapter 2 of Part 12**

**37.** In section 466(1) (interpretation of Chapter 2)(**40**)—

- (a) in paragraph (a) for the words from “within Class I” to the end substitute “of effecting or carrying out contracts of insurance which fall within paragraphs I, II or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”;
- (b) in paragraph (d)—
  - (i) for “Class IV of Head A” substitute “paragraph IV of Part II”;
  - (ii) in sub-paragraph (ii) for “Class I, II or III of Head A” substitute “paragraphs I, II or III of Part II”.

### **Authorised unit trusts: interest distributions**

**38.**—(1) Amend section 468L (interest distributions)(**41**) as follows.

- (2) In subsection (12C)—
  - (a) in the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”;
  - (b) in the definition of “open-ended investment company” for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.
- (3) In subsection (12F)—
  - (a) in paragraph (a) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”;
  - (b) in paragraph (c) for “75(3)(a)” substitute “235(3)(a)”.

### **Interest payments: meaning of deposit-taker**

**39.**—(1) Amend section 481 (meaning of deposit-taker etc.) as follows.

- (2) In subsection (2) for paragraph (b) substitute—
  - “(b) any person falling within section 840A(1)(b) whose permission under Part 4 of the Financial Services and Markets Act 2000 includes permission to accept deposits which are relevant deposits;
  - (ba) any company within the meaning of the Companies Act 1985(**42**)—

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**(40)** Section 466(1) was substituted by section 171(1) of the Finance Act 1996.

**(41)** Section 468L was inserted, together with sections 468H to 468K and sections 468M and 468N, by paragraph 2 of Schedule 14 to the Finance Act 1994 and was relevantly amended by Article 4 of S.I. 1997/212.

**(42)** 1985 c. 6.

- (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979(43) or section 103(3) of the Banking Act 1987; and
  - (ii) which is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits which are relevant deposits;”.
- (3) Omit subsection (5)(g).

#### **Gifts of shares and securities to charities etc.**

**40.** In section 587B(9) (gifts of shares and securities to charities etc.)(44) in the definition of “offshore fund” for “of the Financial Services Act 1986” substitute “given by section 235 of the Financial Services and Markets Act 2000”.

#### **Establishment of schemes**

- 41.**—(1) Amend section 632 (establishment of schemes)(45) as follows.
- (2) In subsection (1)(a) for the words from “is authorised” to the end substitute “has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance or to manage unit trust schemes authorised under section 243 of that Act;”.
- (3) In subsection (1) for paragraph (aa) substitute—
- “(aa) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which—
    - (i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and
    - (ii) fulfils any one of the requirements under subsections (5), (6) or (7) of section 659B(46);
  - (ab) a firm which has permission under paragraph 4 of Schedule 4 to the Financial Services and Markets Act 2000 (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to manage unit trust schemes authorised under section 243 of that Act;
  - (ac) a person who qualifies for authorisation under Schedule 5 to the Financial Services and Markets Act 2000;”.
- (4) Omit subsection (1)(bb).
- (5) In subsection (1) for paragraph (c) substitute—
- “(c) a person falling within section 840A(1)(b);”.
- (6) In subsection (1)(cc)—
- (a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b);”;
  - (b) for “such an institution” substitute “such a person”.
- (7) Omit subsection (1)(d).
- (8) In subsection (1)(e) for sub-paragraphs (i) and (ii) substitute—

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(43) 1979 c. 37; section 48(3) was repealed, together with other sections, by section 108(2) of, and Part 1 of Schedule 7 to, the Banking Act 1987 (c. 22).

(44) Section 587B was inserted by section 43(1) of the Finance Act 2000.

(45) Section 632 was relevantly amended by S.I. 1988/993 and S.I. 1997/2388.

(46) Section 659B was inserted by section 59(5) of the Finance Act 1995.

- “(i) is an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000,
  - (ii) qualifies for authorisation under paragraph 12(1) or (2) of that Schedule, and
  - (iii) has permission under that Act to manage portfolios of investments.”.
- (9) For subsection (2) and (2ZA) substitute—
- “(2) In subsection (1)(a) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (10) Omit subsection (2B).

#### **Pension schemes etc.: meaning of insurance company**

- 42.**—(1) Amend section 659B (definition of insurance company) as follows.
- (2) For subsection (1) substitute—
- “(1) in sections 591(2)(g)(**47**) and 599(7) “insurance company” means one of the following—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which—
    - (i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and
    - (ii) fulfils the requirement under subsection (5), (6) or (7) below.
- (1A) In subsection (1) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (3) Omit subsections (3), (4) and (10).

#### **Power to modify section 735 to take account of recognised investment exchanges**

**43.** In section 738(5) (power to modify section 735 to take account of recognised investment exchanges) for “means a recognised investment exchange within the meaning of the Financial Services Act 1986” substitute “has the meaning given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

#### **Amendment of return where general insurance business of foreign company accounted for on a non-annual basis**

- 44.** In section 755B (meaning of general insurance business)(**48**) for subsection (6) substitute—
- “(6) In this section “general insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

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(47) Section 591(2)(g) was amended by section 107(2) of, and Part 5(12) of Schedule 26 to, the Finance Act 1994.

(48) Section 755B was inserted by paragraph 14 of Schedule 17 to the Finance Act 1998.



### Material interests in offshore funds

45. In section 759(1A) (meaning of collective investment scheme)(49) for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 235 of the Financial Services and Markets Act 2000”.

### Interpretation: meaning of “bank”

46.—(1) Amend section 840A (meaning of bank) as follows.

(2) In subsection (1) for paragraphs (b) and (c) substitute—

“(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits other than—

(i) a building society within the meaning of the Building Societies Act 1986,

(ii) a friendly society within the meaning of section 116 of the Friendly Societies Act 1992(50),

(iii) a society registered as a credit union under the Industrial and Provident Societies Act 1965(51) or the Credit Unions (Northern Ireland) Order 1985(52), or

(iv) an insurance company within the meaning of section 659B(1);

(c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.

(3) Omit subsection (2).

### Qualifying policies

47.—(1) Amend Schedule 15 (qualifying policies)(53) as follows.

(2) In paragraph 4(3)(b)(i) for “business within class VI of Head A or class I of Head B of Schedule 2 to the Friendly Societies Act 1992” substitute “the business of effecting or carrying out contracts of insurance which fall within paragraph 1 of Part I or paragraph VI of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”.

(3) In paragraph 11(1) for the words from “a contract falling” to the end substitute

(a) “a contract of insurance on human life; or

(b) a contract to pay annuities on human life.”.

(4) In paragraph 14(3) for the words from “effected” to “1982” substitute “evidencing a contract of long-term insurance”.

(5) In paragraph 14 after sub-paragraph (3) insert—

“(3A) In sub-paragraph (3) “contract of long-term insurance” means a contract which falls within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

(49) Section 759(1A) was inserted by section 134(3) of the Finance Act 1995.

(50) 1992 c. 40.

(51) 1965 c. 12.

(52) S.I. 1985/1205 (N.I. 12).

(53) Schedule 15 was relevantly amended by paragraph 19(6) of Schedule 9 to the Finance (No. 2) Act 1992.

### **Contractual savings schemes: relevant European institutions**

48. In paragraph 3 of Schedule 15A (contractual savings schemes: relevant European institutions)(54) for the words from “an institution which” to the end substitute “an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”.

### **Overseas life insurance companies**

49.—(1) Amend Schedule 19AC (modifications of Act in application to overseas life insurance companies)(55) as follows.

(2) In sub-paragraph (1) of paragraph 4 in section 11B(5) treated as inserted by that sub-paragraph—

- (a) in paragraph (b) for “39 of the Insurance Companies Act 1982” to the end substitute “43 of the Financial Services and Markets Act 2000 other than an asset not treated as so maintained under that requirement;”;
- (b) in paragraph (c) for the words “by virtue of” to the end substitute “under that requirement;”;
- (c) in paragraph (d) for “an order under section 68 of the Insurance Companies Act 1982” substitute “a direction under section 148 of the Financial Services and Markets Act 2000”.

(3) In paragraph 4A—

- (a) in sub-paragraph (1) for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”;
- (b) in sub-paragraph (2) for “long term insurance” substitute “life insurance”;
- (c) for sub-paragraph (3) substitute—

“(3) In sub-paragraph (2) above, “the third life insurance directive” means the Council Directive of 10th November 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) and [90/619/EEC](#) (No.92/96/EEC)(56).”.

(4) In paragraphs 10AA and 11C for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”.

(5) The amendments made by paragraph (2) above have effect for the purposes of determining whether an asset is a qualifying asset at any time on or after 1st December 2001.

### **Charities: qualifying investments**

50. In paragraph 6 of Schedule 20 (qualifying investments) for “of the Financial Services Act 1986” substitute “given by section 237(1) of the Financial Services and Markets Act 2000”.

### **Apportionment in relation to foreign controlled company: exempt activities**

51.—(1) Amend paragraph 11 of Schedule 25 (apportionment in relation to foreign controlled company: cases where section 747(3) does not apply) as follows.

(2) In sub-paragraph (1) for paragraph (g) substitute—

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(54) Schedule 15A was inserted by paragraph 6(2) of Schedule 12 to the Finance Act 1995.

(55) Schedule 19AC was inserted by paragraph 1 of Schedule 9 to the Finance Act 1993 (c. 34) and relevantly amended by paragraph 2 of Schedule 9 to the Finance Act 1995.

(56) O.J. No. L360, 9.12.1992, pp. 1-27.

“(g) the effecting or carrying out of contracts of insurance; and”.

(3) After sub-paragraph (1) add—

“(1A) For the purposes of sub-paragraph (1)(g) above “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### Miscellaneous amendments

**52.**—(1) In the following provisions for “long term business fund” substitute “long-term insurance fund”—

- (a) section 333B(1), (2)(b), (3) and (9) (in the definition of “long term business fund”);
  - (b) section 431(2) (in the definition of “long term business fund”);
  - (c) section 432A(1)(a) and (9B) (in paragraph (b) in the definition of “investment reserve”)(**57**);
  - (d) section 432AA(2), (3) and (5)(**58**);
  - (e) section 438(1)(**59**);
  - (f) section 438B(1)(**60**);
  - (g) section 440(4)(e)(**61**);
  - (h) section 440A(2)(d)(**62**);
  - (i) section 440B(3)(a)(**63**);
  - (j) section 755A(1)(c), (5), (7) and (12) (in the definition of “long term business fund”)(**64**);
  - (k) the following paragraphs of Schedule 19AA(**65**)—
    - (i) paragraph 2(1)(b), (2) (twice) and (3) (four times);
    - (ii) paragraph 3(1)(a), (2)(a) and (3)(a);
    - (iii) paragraph 4(1), (2) and (5) (in paragraph (b) in the definition of “investment reserve”);
  - (l) the following paragraphs of Schedule 19AC(**66**)—
    - (i) paragraph 3(2) (in section 11(2)(c) treated as inserted) and (3) (in section 11(2A)(b) treated as inserted);
    - (ii) paragraph 6(1) (in paragraph (a) in the definition of “investment reserve” treated as substituted in section 431(2));
    - (iii) paragraph 10C(1) (in section 440B(3)(a) treated as substituted);
    - (iv) paragraph 14A(2) (in paragraph 6(a) and (c) treated as inserted in Schedule 19AA).
- (2) In the following provisions for “long term” substitute “long-term”—

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(57) Section 432A was inserted, together with sections 432B to 432E, by paragraph 4 of Schedule 6 to the Finance Act 1990 and relevantly amended by paragraph 13(2) of Schedule 8 to the Finance Act 1995 and section 109(5) and (6) of the Finance Act 2000.

(58) Section 432AA was inserted by paragraph 39 of Schedule 5 to the Finance Act 1998.

(59) Section 438(1) was amended by paragraph 4(2) of Schedule 8 to the Finance Act 1995.

(60) Section 438B was inserted by paragraph 5 of Schedule 25 to the Finance Act 2001 (c. 9).

(61) Section 440(4) was substituted by paragraph 5(3) of Schedule 8 to the Finance Act 1995.

(62) Section 440A was substituted, together with section 440, for section 440 by paragraph 8 of Schedule 6 to the Finance Act 1990.

(63) Section 440B was inserted by paragraph 28(1) of Schedule 8 to the Finance Act 1995.

(64) Section 755A was inserted by paragraph 13 of Schedule 17 to the Finance Act 1998.

(65) Schedule 19AA was inserted by paragraph 6 of Schedule 7 to the Finance Act 1990 and relevantly amended by Articles 3 and 4 of S.I. 1994/3278 and Article 3 of S.I. 2000/2188.

(66) Schedule 19AC was relevantly amended by paragraphs 39, 44 and 48 of Schedule 8 to the Finance Act 1995, section 109(9) (c)(i) of the Finance Act 2000 and Article 5 of S.I. 2000/2188.

- (a) section 431(2) (in the definition of “long term business fund”);
- (b) section 432ZA(2)(a) and (b), (3) and (7) (twice)(67);
- (c) section 432A(2)(f), (8)(a) (twice) and (b) and (9B) (in the first place where it occurs in the definition of “investment reserve”);
- (d) section 432AA(4)(d);
- (e) section 432C(1)(68);
- (f) section 432D(1)(69);
- (g) section 440B(4) (in section 440A(2)(a) treated as substituted);
- (h) section 444A(5)(70);
- (i) section 463(1), (2) and (3)(71);
- (j) section 466(2) (in the definition of “long term business”)(72);
- (k) section 804B(4)(b) and (5)(b)(73);
- (l) section 804C(13)(b)(74);
- (m) the following paragraphs of Schedule 19AA—
  - (i) paragraph 2(3)(d) (in the second place where it occurs);
  - (ii) paragraph 4(2)(a) and (b), (4)(b) and (5) (in the first place where it occurs in the definition of “investment reserve”);
- (n) paragraph 5(5)(a) and (b) of Schedule 19AB(75);
- (o) the following paragraphs of Schedule 19AC—
  - (i) paragraph 6(1) (in paragraph (b) in the definition of “investment reserve” treated as substituted in section 431(2));
  - (ii) paragraph 7(2)(a), (3)(a) and (b);
  - (iii) paragraph 10C(2) (in section 440B(4)(a) treated as substituted);
  - (iv) paragraph 14A(2) (in paragraph 6(b) treated as inserted in Schedule 19AA).

*The Finance Act 1988 (c. 39)*

**Meaning of “financial trading stock” in relation to a building society**

**53.** In paragraph 2(3) of Schedule 12 to the Finance Act 1988 (meaning of “financial trading stock” in relation to a building society)(76) for the words from “such of the assets” to the end substitute

“those assets held by the society that—

- (a) are of such proportion and composition as will enable it at all times to meet its liabilities as they arise, and

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(67) Section 432ZA was inserted by paragraph 11(2) of Schedule 8 to the Finance Act 1995.

(68) Section 432C(1) was amended by paragraphs 12(1)(a) and 14(2) of Schedule 8 to the Finance Act 1995.

(69) Section 432D(1) was amended by paragraphs 12(1)(a) and 15(2) of Schedule 8 to the Finance Act 1995.

(70) Section 444A(5) was amended by paragraph 17(5) of Schedule 8 to the Finance Act 1995.

(71) Section 463 was amended by section 50 of the Finance Act 1990, paragraph 10 of Schedule 9 to the Finance (No. 2) Act 1992 and section 171(5) of the Finance Act 1996.

(72) Section 466(2) was relevantly amended by section 171(2)(b) of the Finance Act 1996.

(73) Section 804B was inserted by paragraph 17 of Schedule 30 to the Finance Act 2000.

(74) Section 804C was inserted by paragraph 18(1) of Schedule 30 to the Finance Act 2000.

(75) Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 and is repealed by Part 2(12) of Schedule 33 to the Finance Act 2001 with effect in accordance with section 87 of that Act.

(76) Paragraph 2(3) was amended by section 45(2) of the Building Societies Act 1997 (c. 32).

- (b) constitute trading stock for the purposes of section 100 of the Taxes Act 1988(77).”.

*The Finance Act 1989 (c. 26)*

**Introduction**

- 54.** Amend the Finance Act 1989 in accordance with Articles 55 to 60.

**Calculation of profits**

- 55.—**(1) Amend section 82 (calculation of profits) as follows.

(2) In subsection (1)(b) for “its return for the purposes of the Insurance Companies Act 1982” substitute “the return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)”.

- (3) After subsection (1) insert—

“(1A) In subsection (1)(b) above “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.

- (4) This Article has effect in relation to periods of account ending on or after 1st December 2001.

**Computation of profits of life assurance companies**

**56.—**(1) Amend section 83 (receipts to be brought into account in relation to profits of life assurance business computed under Schedule D, Case I)(78) as follows.

- (2) In subsection (6) for paragraph (a) substitute—

“(a) a transfer, under an insurance business transfer scheme, of business which consists of the effecting or carrying out of contracts of long-term insurance;”.

- (3) After subsection (6) insert—

“(6A) In subsection (6)(a) above—

“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;

“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

(4) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

**Meaning of “brought into account”**

- 57.—**(1) In section 83A(2) (meaning of “brought into account”)(79)—

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(77) The reference is to section 100 of the Income and Corporation Taxes Act 1988 which was amended by section 140 of the Finance Act 1995 and section 46(3) of, and paragraph 1 of Schedule 7 to, the Finance Act 1988.

(78) Sections 83 and 83A were substituted for section 83 by paragraph 16(1) of Schedule 8 to the Finance Act 1995 and subsections (3) to (8) of section 83 were substituted for subsection (3) of that section by paragraph 4 of Schedule 31 to the Finance Act 1996.

(79) Section 83A(2) was amended by paragraph 6(2) of Schedule 31 to the Finance Act 1996.

- (a) in paragraph (a) for “the Insurance Companies Act 1982” substitute “Chapter 9 of the Prudential Sourcebook (Insurers)”;
  - (b) in paragraph (b) for “under that Act” substitute “under that Chapter”;
  - (c) for the words from “Paragraph (b)” to the end substitute “In paragraph (a) “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.
- (2) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Policy holders' share of profits**

- 58.**—(1) Amend section 89 (policy holders' share of profits)(**80**) as follows.
- (2) In subsection (6) for “the Insurance Companies Act 1982” substitute “Chapter 9 of the Prudential Sourcebook (Insurers)”.
- (3) For subsection (7) substitute—
- “(7) In this section—
- “Case I profits” means profits computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D;
- “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.
- (4) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Modification of section 83A in relation to overseas life insurance companies**

- 59.**—(1) Amend paragraph 1B of Schedule 8A (modification of section 83A in relation to overseas life insurance companies)(**81**) as follows.
- (2) For “the Insurance Companies Act 1982” substitute “Chapter 9 of the Prudential Sourcebook (Insurers)”.
- (3) Renumber the existing provision (as amended by paragraph (2)) as sub-paragraph (1) and after that sub-paragraph insert—
- “(2) In sub-paragraph (1) “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.
- (4) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Miscellaneous amendments**

- 60.**—(1) In the following places for “long term business” substitute “long-term insurance”—
- (a) section 83(2)(a), (3) and (8) (in the definition of “add”);
  - (b) the sidenote to section 83AA and subsections (2) (in the definition of “relevant amount”), (3) and (4) of that section(**82**);
  - (c) section 83AB(1) and (3);

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**(80)** Section 89 was substituted by section 45(3) of the Finance Act 1990.

**(81)** Schedule 8A was inserted by Schedule 10 to the Finance Act 1993 and paragraph 1B was substituted, together with paragraphs 1, 1A and 1C, for paragraph 1 by paragraph 49(2) of Schedule 8 to the Finance Act 1995.

**(82)** Section 83AA was inserted, together with section 83AB, by paragraph 5 of Schedule 31 to the Finance Act 1996.

- (d) paragraph 1A(4) (twice) and (5) of Schedule 8A(83).
- (2) In the following provisions for “long term” substitute “long-term”—
  - (a) section 83A(2)(a);
  - (b) paragraph 1B of Schedule 8A.
- (3) In section 89(5)(a) for “business” substitute “insurance”.

### *The Taxation of Chargeable Gains Act 1992 (c. 12)*

#### **Introduction**

- 61. Amend the Taxation of Chargeable Gains Act 1992 in accordance with Articles 62 to 73.

#### **Unit trust schemes**

62.—(1) In section 99(2)(a) (application of Act to unit trust schemes) for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 237(1) of the Financial Services and Markets Act 2000”.

(2) In section 102(3) (collective investment schemes with property divided into separate parts) for “the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”.

#### **Qualifying corporate bonds: meaning of permanent interest bearing share**

63.—(1) In section 117(11) (meaning of permanent interest bearing share) for paragraph (b) substitute—

- “(b) “permanent interest bearing share” means a share which is a permanent interest bearing share within the meaning of, and is eligible for inclusion in the calculation for capital adequacy in accordance with, the Prudential Sourcebook (Building Societies) as that Sourcebook applies in relation to shares issued on the date that the share is issued, and in paragraph (b) above “the Prudential Sourcebook (Building Societies)” means the Interim Prudential Sourcebook for Building Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000(84).”.

(2) This Article has effect in relation to shares in a building society issued on or after 1st December 2001.

#### **Commodity and financial futures etc.**

64.—(1) Amend section 143 (commodity and financial futures etc.)(85) as follows.

(2) In subsections (3)(a) and (b) and (7)(b) omit “or listed institution”.

(3) For subsection (8) substitute—

“(8) In this section “authorised person” means a person who—

- (a) falls within section 31(1)(a), (b) or (c) of the Financial Services and Markets Act 2000, and

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(83) Sub-paragraph (4) of paragraph 1A was amended, and sub-paragraph (5) of that paragraph inserted, by paragraph 8(4) and (5) of Schedule 31 to the Finance Act 1996.

(84) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

(85) Section 143 was relevantly amended by section 95 of the Finance Act 1995.

- (b) has permission under that Act to carry on one or more of the activities specified in Article 14 and, in so far as it applies to that Article, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### **Options and forfeited deposits**

- 65.** In section 144(8)(c) (options and forfeited deposits)—
- (a) in sub-paragraph (i) for the words from “authorised” to “that Act” substitute “authorised person within the meaning given by section 143(8)”;
- (b) in sub-paragraph (iii) omit “or institution” (twice).

### **Transfer of insurance business**

- 66.—**(1) In section 211 (transfer of long-term business)(**86**) for subsection (1) substitute—
- “(1) This section applies where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).
- (1A) In subsection (1)—
- “insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;
- “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Spreading of gains and losses accruing as a result of deemed disposal under section 212**

- 67.—**(1) In section 213(5) (spreading of gains and losses accruing as a result of deemed disposal under section 212)(**87**) for the words from “there” to “1982” substitute “an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”)”.
- (2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Gains not eligible for taper relief**

- 68.—**(1) In section 214C(3) (gains not eligible for taper relief)(**88**) for the definition of “insurance company” substitute—
- ““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

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**(86)** Section 211(1) was amended by paragraph 1(2)(d) of Schedule 9 to the Finance Act 1995.

**(87)** Section 213(5) was amended by paragraphs 1(2)(d) and 4 of Schedule 9 to the Finance Act 1995.

**(88)** Section 214C was inserted by paragraph 7 of Schedule 21 to the Finance Act 1998.



(2) This Article has effect for the purposes of determining whether, at any time on or after 1st December 2001, a company is a mutual company within the meaning of section 214C(3) of the Taxation of Chargeable Gains Act 1992.

### **Application of Act to recognised investment exchanges**

**69.** In section 285 (power to provide for provisions referring to The Stock Exchange to have effect in relation to recognised investment exchanges) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

### **Interpretation**

**70.** In section 288(1) (interpretation) in the definition of “collective investment scheme” for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 235 of the Financial Services and Markets Act 2000”.

### **Application of taper relief: special rules for assets acquired in the reconstruction of mutual businesses etc.**

**71.—(1)** In paragraph 18(3) of Schedule A1 (application of taper relief: special rules for assets acquired in the reconstruction of mutual businesses etc.)(**89**) for the definition of “insurance company” substitute—

““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(2) This Article has effect for the purposes of determining whether, at any time on or after 1st December 2001, a company is a mutual company within the meaning of paragraph 18 of Schedule A1 to the Taxation of Chargeable Gains Act 1992.

### **Overseas life insurance companies**

**72.—(1)** In paragraphs 9A and 11(1A) of Schedule 7B (modification of Act in relation to overseas life insurance companies)(**90**) for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Miscellaneous amendments**

**73.—(1)** In the following provisions for “long term business” substitute “long-term insurance”—

- (a) section 212(1);
- (b) paragraph 8(2) (in section 185(4A)(a) and (b) treated as inserted) and (3) (in section 185(5)(ba) treated as inserted) of Schedule 7B;

(2) In the following provisions for “long term” substitute “long-term”—

- (a) section 213(4) and (7);
- (b) paragraph 11(1) of Schedule 7B.

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**(89)** Schedule A1 was inserted by Schedule 20 to the Finance Act 1998.

**(90)** Schedule 7B was inserted by Schedule 11 to the Finance Act 1993 and paragraphs 9A and 11(1A) were inserted in that Schedule by paragraph 6(2) and (3) of Schedule 9 to the Finance Act 1995.

*The Finance (No. 2) Act 1992 (c. 48)*

**Special provisions in relation to banks etc. in compulsory liquidation**

**74.**—(1) In paragraph 1(1) of Schedule 12 to the Finance (No. 2) Act 1992 (banks etc. in compulsory liquidation: application)—

- (a) in paragraph (b) for the words from “deposit-taking” to the end substitute “business of accepting deposits as—
  - (i) a person falling within section 840A(1)(b) of the Taxes Act 1988, or
  - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 with permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation by virtue of paragraph 12 of that Schedule) to accept deposits;”;
- (b) in paragraph (c) for “deposit-taking business” substitute “business of accepting deposits”.

(2) This Article has effect in relation to—

- (a) any period mentioned in paragraph 1(2) of Schedule 12 to the Finance (No. 2) Act 1992 (“a relevant period”) which begins on or after 1st December 2001; or
- (b) any part of a relevant period which falls on or after that date.

*The Finance Act 1993 (c. 34)*

**Introduction**

**75.** Amend the Finance Act 1993 in accordance with Articles 76 to 82.

**Deferral of unrealised gains**

**76.**—(1) Amend section 143 (deferral of gains: supplementary) as follows.

- (2) In subsection (5)(a) for “long term” substitute “long-term”.
- (3) In subsection (6) for the definition of “long term insurance business” substitute—
 

““long-term insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

**Early termination of currency contract**

**77.** In section 146(16)(a) (early termination of currency contract) for “long term” substitute “long-term”.

**Insurance companies**

**78.** In section 168(7) (insurance companies)<sup>(91)</sup> for the words from “any insurance” to the end substitute “the business of effecting or carrying out contracts of insurance and, for the purposes of this subsection, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

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(91) Section 168(7) was amended by section 52(2) of the Finance Act 1995.

## Interpretation

- 79.** In section 184(1) (interpretation) for the definition of “premiums trust fund” substitute—
- ““premium trust fund” means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under section 10.3 of the Lloyd’s Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000(92);”.

## Exchange gains and losses: alternative calculations

**80.**—(1) Amend paragraph 2 of Schedule 15 (power to make provision about alternative calculations in relation to exchange gains and losses where asset held in exempt circumstances) as follows.

- (2) In sub-paragraph (4)(a) for “long term” substitute “long-term”.
- (3) In sub-paragraph (5) for the definition of “long term insurance business” substitute—
- ““long-term insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

## Exchange gains and losses: chargeable gains

- 81.**—(1) Amend Schedule 17 (exchange gains and losses: chargeable gains) as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (2)(a) for “long term” substitute “long-term”;
- (b) in sub-paragraph (3) for the definition of “long term insurance business” substitute—
- ““long-term insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.
- (3) In paragraph 7(4)—
- (a) in paragraph (a) for “long term” substitute “long-term”;
- (b) for the words immediately after paragraph (b) substitute “and “long-term insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

## Miscellaneous amendments

- 82.** In the following places for “premiums” substitute “premium”—
- (a) section 171(2B)(93);
- (b) section 172(1)(b)(94);
- (c) the sidenote to section 174 and subsections (1)(a), (2) and (3) of that section(95);
- (d) section 182(1)(ca)(96);

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(93) Section 171(2B) was inserted by section 22(1) of the Finance (No. 2) Act 1997.

(94) Section 172(1)(b) was substituted by paragraph 2 of Schedule 21 to the Finance Act 1994.

(95) Section 174 was relevantly amended by paragraph 3 of Schedule 21 to the Finance Act 1994.

(96) Section 182(1)(ca) was inserted by section 83(2) of the Finance Act 1995 and amended by paragraph 6(a) of Schedule 10, and Part 6(10) of Schedule 18, to the Finance Act 1997.

- (e) section 184(1) (in the definition of “ancillary trust fund”) and (2)(b)(97);
- (f) paragraph 1(b) of Schedule 19;
- (g) the following paragraphs of Schedule 20—
  - (i) paragraph 4(1) and (2);
  - (ii) paragraph 5(1).

*The Finance Act 1994 (c. 9)*

### **Introduction**

**83.** Amend the Finance Act 1994 in accordance with Articles 84 to 87.

### **Interest rate and currency contracts**

**84.**—(1) Amend section 177(1) (interpretation of Chapter 2 of Part 4: interest rate and currency contracts)(98) as follows.

- (2) In the definition of “bank” for paragraphs (b) and (c) substitute—
  - “(b) any person falling within section 840A(1)(b) of the Taxes Act 1988; and
  - (c) any firm falling within section 840A(1)(c) of that Act;”.
- (3) Omit the definitions of “deposit” and “European authorised institution”.
- (4) For the definition of “financial trader” substitute—
  - ““financial trader” means—
  - (a) any person who—
    - (i) falls within section 31(1)(a), (b) or (c) of the Financial Services and Markets Act 2000, and
    - (ii) has permission under that Act to carry on one or more of the activities specified in Article 14 and, in so far as it applies to that Article, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; or
  - (b) any person not falling within paragraph (a) above who is approved by the Board for the purposes of this paragraph;”.
- (5) In the definition of “insurance company” for the words from “carries” to the end substitute “effects or carries out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.
- (6) Omit the definition of “investment business”.

### **Interpretation**

**85.** In section 230 (interpretation) for the definition of “premiums trust fund” substitute—

““premium trust fund” means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under section 10.3 of the Lloyd’s Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.

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(97) Section 184(1) was relevantly amended by paragraph 8 of Schedule 21, and Part 5(25) of Schedule 26, to the Finance Act 1994.

(98) Section 177(1) was relevantly amended by section 52(3) of the Finance Act 1995.

### Provisions relating to the Railways Act 1993

**86.**—(1) In paragraph 19(7) of Schedule 24 (provisions relating to the Railways Act 1993<sup>(99)</sup>: leased assets) in the definition of “securities” for “142 of the Financial Services Act 1986” substitute “74(5) of the Financial Services and Markets Act 2000”.

(2) This Article has effect in relation to disposals of securities made on or after 1st December 2001.

### Miscellaneous amendments

**87.** In the following places for “premiums” substitute “premium”—

- (a) section 219(2), (4) and (4B)<sup>(100)</sup>;
- (b) section 220(1) and (2)(b);
- (c) the sidenote to section 222 and subsections (1)(a), (2) and (3) of that section;
- (d) section 226(2) and (3);
- (e) section 229(ca)<sup>(101)</sup>;
- (f) section 230(1) (in the definition of “ancillary trust fund”) and (2)(a)(i).

*The Finance Act 1995 (c. 4)*

### Introduction

**88.** Amend the Finance Act 1995 in accordance with Articles 89 to 91.

### Persons not treated as UK representatives

**89.** In section 127(17) (persons not treated as UK representatives: interpretation) for the definitions of “collective investment scheme” and “participant” substitute—

““collective investment scheme” has the meaning given by section 235 of the Financial Services and Markets Act 2000 and “participant”, in relation to such a scheme, shall be construed in accordance with that section;”.

### Open-ended investment companies

**90.** In section 152(6) (power of the Treasury to make regulations in relation to tax treatment of open-ended investment companies) for the definition of “open-ended investment company” substitute—

““open-ended investment company” shall have the meaning given by section 236 of the Financial Services and Markets Act 2000;”.

### Contractual savings schemes

**91.**—(1) Amend Schedule 12 (contractual savings schemes) as follows.

(2) In paragraph 7(2)(a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b) of the Taxes Act 1988”.

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<sup>(99)</sup> 1993 c. 43.

<sup>(100)</sup> Section 219 was relevantly amended by section 22(2) and (3) of, and Part 2(5) of Schedule 8 to, the Finance (No. 2) Act 1997 (c. 58).

<sup>(101)</sup> Section 229(ca) was inserted by section 83(2) of the Finance Act 1995 and amended by paragraph 6(b) of Schedule 10, and Part 6(10) of Schedule 18, to the Finance Act 1997.

- (3) In paragraph 8(4) for paragraph (b) substitute—  
“(b) any person falling within section 840A(1)(b) of the Taxes Act 1988;”.

*The Finance Act 1996 (c. 8)*

**Introduction**

- 92.** Amend the Finance Act 1996 in accordance with Articles 93 to 96.

**Mis-sold personal pensions**

- 93.**—(1) Amend section 148(6) (mis-sold personal pensions: interpretation) as follows.
- (2) In the definition of “bad investment advice” for paragraph (d) substitute—  
“(d) by reason of a contravention which is actionable—  
(i) under section 62 of the Financial Services Act 1986; or  
(ii) under section 150 of the Financial Services and Markets Act 2000;”.
- (3) For the definition of “investment advice” substitute—  
““investment advice”—  
(a) in relation to a time before 1st December 2001, means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986; and  
(b) in relation to a time on or after that date, means advice such as is mentioned in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

**Loan relationships: continuity of treatment**

- 94.**—(1) Amend paragraph 12 of Schedule 9 (loan relationships: continuity of treatment) as follows.
- (2) In sub-paragraph (1) for paragraph (c) substitute—  
“(c) a transfer between two companies of business consisting of the effecting or carrying out of contracts of long-term insurance which has effect under an insurance business transfer scheme;”.
- (3) For paragraph (9) substitute—  
“(9) In this paragraph—  
“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;  
“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;  
“overseas life insurance company” has the same meaning as in Chapter 1 of Part 12 of the Taxes Act 1988.”.
- (4) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Loan relationships: collective investment schemes**

**95.**—(1) Amend paragraph 8 of Schedule 10 (loan relationships: non-qualifying investment test for collective investment schemes)(**102**) as follows.

(2) In sub-paragraph (7A)—

(a) in paragraph (a) for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”;

(b) in paragraph (b) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.

(3) In sub-paragraph (7D)—

(a) in paragraph (a) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”;

(b) in paragraph (c) for “75(3)(a)” substitute “235(3)(a)”.

### **Miscellaneous amendments**

**96.**—(1) In the following provisions for “long term” substitute “long-term”—

(a) paragraph 12(3) of Schedule 9;

(b) the following paragraphs of Schedule 11(**103**)—

(i) paragraph 3(b);

(ii) paragraph 3A(1)(b), (2), (3)(a) and (4);

(iii) paragraph 5(1)(a);

(iv) paragraph 6;

(c) paragraph 1(3) of Schedule 15.

(2) In paragraph 3A(1)(a) of Schedule 11 for “long term business” substitute “long-term insurance”.

### *The Finance Act 1997 (c. 16)*

### **Introduction**

**97.** Amend the Finance Act 1997 in accordance with Articles 98 to 102.

### **Payments under certain life insurance policies**

**98.**—(1) Amend section 79 (payments under certain life insurance policies) as follows.

(2) In subsection (5) for paragraph (a) substitute—

“(a) is a contract which falls within paragraph I or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(3) In subsection (6) for the words from “of a” to the end substitute “which falls within Part I or II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 other than a contract which falls within paragraph I or III of Part II of that Schedule.”.

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(102) Paragraph 8 was relevantly amended by Article 10 of S.I. 1997/213.

(103) Schedule 11 was relevantly amended by section 109(8) of the Finance Act 2000.

### **Stamp duty: mergers of authorised unit trusts**

**99.**—(1) In section 95(4) (mergers of authorised unit trusts) in the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.

(2) This Article has effect in relation to any instrument executed on or after 1st December 2001.

### **Stamp duty: demutualisation of insurance companies**

**100.**—(1) Amend section 96 (demutualisation of insurance companies) as follows.

(2) In subsection (7) for paragraphs (a) and (b) substitute—

- “(a) a transfer from a company to another person of business consisting of the effecting or carrying out of contracts of insurance which is effected under an insurance business transfer scheme; or
- (b) a transfer of the whole or any part of the business of a general insurance company carried on through a branch or agency in the United Kingdom which takes place in accordance with any authorisation granted outside the United Kingdom for the purposes of—
  - (i) Article 11 of the third life assurance directive; or
  - (ii) Article 12 of the third non-life insurance directive.”.

(3) In subsection (8)—

(a) before the definition of “employee” insert—

““contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”;

(b) for the definition of “insurance company” substitute—

““general insurance company” means a company which has permission under Part 4 of the Financial Services and Markets Act 2000 or under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance;

“insurance business transfer scheme” has the same meaning as in Part 7 of the Financial Services and Markets Act 2000;

“insurance company” means a company which carries on the business of effecting or carrying out contracts of insurance;”;

(c) after the definition of “mutual insurance company” insert—

““the third life insurance directive” means the Council Directive of 10th November 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) and [90/619/EEC](#) (No. [92/96/EEC](#));

“the third non-life insurance directive” means the Council Directive of 18th June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#) and [88/357/EEC](#) (NO. [92/49/EEC](#))(104);”.

(4) This Article has effect in relation to any instrument executed on or after 1st December 2001 which effects a transfer—

- (a) under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsections (3) of that section; or



- (b) in relation to which section 116 of the Financial Services and Markets Act 2000 applies.

### **Stamp duty reserve tax: mergers of authorised unit trusts**

**101.**—(1) In section 100(4) (mergers of authorised unit trusts) in the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.

(2) This Article has effect in relation to—

- (a) an agreement to transfer chargeable securities which is not conditional, if the agreement is made on or after 1st December 2001;
- (b) a conditional agreement to transfer such securities, if the condition is satisfied on or after that date.

### **Leasing arrangements—finance leases and loans**

**102.**—(1) Amend Schedule 12 (leasing arrangements—finance leases and loans) as follows.

(2) In paragraph 18—

- (a) for the words from “Part II” to “rules” substitute “the rules contained in Chapter 9 of the Prudential Sourcebook (Insurers)”;
- (b) renumber the existing provision (as amended by sub-paragraph (a)) as sub-paragraph (1) and after that sub-paragraph insert—

“(2) In sub-paragraph (1) above “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.

(3) In paragraph 19—

- (a) in sub-paragraphs (2), (3) and (4)(b) for “long term business” substitute “long-term insurance”;
- (b) in sub-paragraph (4)(c) for “long term” substitute “long-term”.

(4) The amendments made by paragraph (2) above have effect in relation to periods of account ending on or after 1st December 2001.

### *The Finance Act 1998 (c. 36)*

### **Company tax returns: insurance companies and friendly societies with non-annual actuarial investigations**

**103.**—(1) Amend Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) as follows.

(2) In paragraph 13(2)(c) and (3) for “long term” substitute “long-term”.

(3) In paragraph 86—

- (a) in sub-paragraph (1) for “an order under section 68 of the Insurance Companies Act 1982” substitute “a direction under section 148 of the Financial Services and Markets Act 2000”.
- (b) in sub-paragraph (3) for “18 of the Insurance Companies Act 1982” substitute “9.4 of the Prudential Sourcebook (Insurers)”;
- (c) after sub-paragraph (3) add—

“(4) In sub-paragraph (1) “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.

(4) In paragraph 87—

(a) in sub-paragraphs (1) and (3) for “47 of the Friendly Societies Act 1992” substitute “5.2 of the Prudential Sourcebook (Friendly Societies)”;

(b) after sub-paragraph (3) add—

“(4) In this paragraph “the Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000(105).”.

(5) The amendments made by paragraphs (3)(b) and (c) and (4) above have effect in relation to periods of account ending on or after 1st December 2001.

#### *The Finance Act 1999 (c. 16)*

#### **Stamp duty and stamp duty reserve tax: meaning of unit trust scheme**

**104.**—(1) In paragraph 14(2) of Schedule 19 to the Finance Act 1999 (meaning of unit trust scheme) for “the same meaning as in the Financial Services Act 1986” substitute “the meaning given by section 237(1) of the Financial Services and Markets Act 2000”.

(2) This Article has effect—

(a) for the purposes of stamp duty, in relation to any instrument executed on or after 1st December 2001;

(b) for the purposes of stamp duty reserve tax, in relation to—

(i) an agreement to transfer chargeable securities which is not conditional, if the agreement is made on or after 1st December 2001;

(ii) a conditional agreement to transfer such securities, if the condition is satisfied on or after that date;

(iii) a surrender (as referred to in Part 2 of Schedule 19 to the Finance Act 1999) which occurs on or after that date.

#### *The Finance Act 2000 (c. 17)*

#### **Introduction**

**105.** Amend the Finance Act 2000 in accordance with Articles 106 and 107.

#### **General insurance reserves**

**106.**—(1) Amend section 107(7) (general insurance reserves) as follows.

(2) For the definition of “general business” substitute—

““general business” means business which consists of the effecting or carrying out of contracts that fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

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(105) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

- (3) In the definition of “general insurer” for paragraphs (a) and (b) substitute—
- “(a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts that fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out such contracts;
  - (ba) a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out such contracts;”.

### **Employee share ownership plans**

- 107.** In paragraph 39(3) of Schedule 8 (partnership share money held for employees)—
- (a) for sub-paragraph (a) substitute—
    - “(a) a person falling within section 840A(1)(b) of the Taxes Act 1988;”;
  - (b) for sub-paragraph (c) substitute—
    - “(c) a firm falling within section 840A(1)(c) of that Act.”.

### *The Capital Allowance Act 2001 (c. 2)*

### **Transfer of insurance company business**

**108.**—(1) Amend section 560 of the Capital Allowance Act 2001 (transfer of insurance company business) as follows.

(2) In subsection (1)(b)(i) for the words from “a scheme” to “or” substitute “an insurance business transfer scheme to transfer business which consists of the effecting or carrying out of contracts of long-term insurance, or”.

- (3) In subsection (5)—
- (a) omit the word “and” at the end of paragraph (a);
  - (b) for paragraph (b) substitute—
    - “(b) “insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000 (c. 8), including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section,
    - (c) “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I.2001/544), and
    - (d) “non-resident company” means a company resident outside the United Kingdom.”.

(4) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded Scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

*Consequential repeals and revocations*

**Repeals and revocations in consequence of the amendments made by this Part**

**109.** The enactments mentioned in the Schedule to this Order (which include provisions that are spent or are of no practical utility) are repealed or revoked to the extent specified.

**PART 3**

**AMENDMENTS TO SECONDARY LEGISLATION**

*The Income Tax (Life Assurance Premium Relief) Regulations 1978 (S.I. 1978/1159)*

**Interpretation**

**110.** In regulation 2(1) of the Income Tax (Life Assurance Premium Relief) Regulations 1978 (interpretation)(**106**) in the definition of “industrial branch business” after “means” insert “any such business carried on before 1st December 2001 as was”.

*The Friendly Societies (Life Assurance Premium Relief) (Change of Rate) Regulations 1980 (S.I. 1980/1947)*

**Interpretation**

**111.** In regulation 2 of the Friendly Societies (Life Assurance Premium Relief) (Change of Rate) Regulations 1980 (interpretation) in the definition of “collecting society” for “has” substitute “means a society which before 1st December 2001 was a collecting society within”.

*The Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711)*

**Introduction**

**112.** Amend the Stamp Duty Reserve Tax Regulations 1986 in accordance with Articles 113 to 115.

**Interpretation**

**113.—**(1) Amend regulation 2 (interpretation)(**107**) as follows.

(2) In the definition of “accountable date” in paragraphs (a)(ii) and (b) for “a recognised self-regulating organisation, a recognised professional body” substitute “the Financial Services Authority”.

(3) In the definition of “EEA regulated market” for the words from “paragraphs” to “1995” substitute “paragraph 36(2) of Part III of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001(**108**)”.

(4) Omit the definition of “European institution”.

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(**106**) Regulation 2(1) was amended by Article 3 of S.I. 1979/1576.

(**107**) Regulation 2 was relevantly amended by regulation 2(a) and (b) of S.I. 1992/3287 and regulation 3(a), (c), (f) and (g) of S.I. 1997/2430.

(**108**) S.I. 2001/1201.

(5) In the definition of “exchange” in paragraph (a) for “207(1) of the Financial Services Act 1986” substitute “285(1)(a) of the Financial Services and Markets Act 2000”.

(6) For the definition of “investment business” substitute—

““investment business” means business which consists of the carrying on of one or more of the activities specified in Articles 14, 21, 25, 37, 40, 45, 51 and 53 and, in so far as it applies to any of those Articles, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(7) In the definition of “qualified dealer” for paragraphs (a) and (b) substitute—

“(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on investment business, or”.

(8) Omit the definition of “recognised professional body” and “recognised self-regulating organisation”.

### **Notice of charge and payment**

**114.** In regulation 4A(1)(a)(ii) (notice of charge and payment)(**109**) for “a recognised self-regulating organisation, a recognised professional body” substitute “the Financial Services Authority”.

### **The Taxes Management Act 1970: provisions to apply**

**115.**—(1) Amend the Schedule (the Taxes Management Act 1970: provisions to apply)(**110**) as follows.

(2) In the Table in Part I in the entry relating to section 25(4)(**111**) in the second column for the words from “paragraphs” to “1995” substitute “paragraph 36(2) of Part III of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001”.

(3) In Part II in section 25(4) (as modified) for the words from “paragraphs” to “1995” substitute “paragraph 36(2) of Part III of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001”.

*The Capital Gains Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/266)*

### **Interpretation**

**116.** In regulation 2 of the Capital Gains Tax (Definition of Unit Trust Scheme) Regulations 1988 (interpretation) for the definition of “participant” substitute—

““participant”, in relation to a unit trust scheme, shall be construed in accordance with section 235 of the Financial Services and Markets Act 2000;”.

*The Income Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/267)*

### **Interpretation**

**117.** In regulation 2 of the Income Tax (Definition of Unit Trust Scheme) Regulations 1988 (interpretation) for the definition of “participant” substitute—

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(109) Regulation 4A was inserted by regulation 5 of S.I. 1997/2430.

(110) The Schedule was relevantly amended by regulations 11(2) and 12(2) of S.I. 1997/2430.

(111) Section 25(4) was amended by paragraph 8(1) of Schedule 18 to the Finance Act 1986.

““participant”, in relation to a unit trust scheme, shall be construed in accordance with section 235 of the Financial Services and Markets Act 2000;”.

*The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/268)*

### Interpretation

**118.** In regulation 2 of the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme) Regulations 1988 (interpretation) for the definition of “participant” substitute—

““participant”, in relation to a unit trust scheme, shall be construed in accordance with section 235 of the Financial Services and Markets Act 2000;”.

*The Occupational Pension Schemes (Transitional Provisions) Regulations 1988 (S.I. 1988/1436)*

### Disapplication of paragraphs 2, 3, 4 and 6 of Schedule 23 to the Income and Corporation Taxes Act 1988—further provision

**119.**—(1) Amend regulation 4ZA(4) of the Occupational Pension Schemes (Transitional Provisions) Regulations 1988 (disapplication of paragraphs 2, 3, 4 and 6 of the Schedule—further provision)(**112**) as follows.

(2) In the definition of “bad investment advice” for paragraph (d) substitute—

“(d) by reason of a contravention which is actionable—

(i) under section 62 of the Financial Services Act 1986; or

(ii) under section 150 of the Financial Services and Markets Act 2000;”.

(3) For the definition of “investment advice” substitute—

““investment advice”—

(a) in relation to a time before 1st December 2001, means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986; and

(b) in relation to a time on or after that date, means advice such as is mentioned in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

*The Personal Equity Plan Regulations 1989 (S.I. 1989/469)*

### Introduction

**120.** Amend the Personal Equity Plan Regulations 1989 in accordance with Articles 121 to 125.

### Interpretation

**121.**—(1) Amend regulation 2(1) (interpretation)(**113**) as follows.

(2) Amend sub-paragraph (a) in accordance with paragraphs (3) and (4) below.

(3) In the definition of “company” in paragraph (i) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.

(4) For the definition of “European institution” substitute—

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(112) Regulation 4ZA was inserted by regulation 4 of S.I. 1996/3115.

(113) Regulation 2(1) was relevantly amended by regulation 3(a) of S.I. 1995/3287, regulation 3(2) and (3) of S.I. 1997/1716, regulation 3 of S.I. 1998/1869 and regulation 3 of S.I. 2001/923.

““European institution” means an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000 which is an authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule;”.

(5) Amend sub-paragraph (b) in accordance with paragraphs (6) to (14) below.

(6) Before the definition of “authorised unit trust” insert—

““authorised fund” means—

- (i) an authorised unit trust, or
- (ii) an open-ended investment company with variable capital incorporated in the United Kingdom in the case of which an authorisation order made by the Financial Services Authority under regulation 14 of the Open-Ended Investment Companies Regulations 2001(114) is in force;”.

(7) In the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.

(8) In the definition of “the first condition” for the words from “subject to” to the end substitute “of the scheme, or subject to the trusts of the scheme, to consist of units in, or shares of, authorised funds or parts of umbrella schemes which are not securities schemes or warrant schemes;”.

(9) In the definition of “the second condition”—

- (a) for “subject to the trusts of the scheme” substitute “of the scheme, or subject to the trusts of the scheme;”;
- (b) in paragraph (i) for “87 or 88 of the Financial Services Act 1986” substitute “270 or 272 of the Financial Services and Markets Act 2000”;
- (c) for paragraph (ii) to the end substitute—

“(ii) a part of a scheme mentioned in paragraph (i) which would be a part of an umbrella scheme if the definition of “umbrella scheme” and a part thereof applied to a scheme mentioned in paragraph (i),

where the terms of the scheme mentioned in paragraph (i) identify that scheme, or the part thereof, as the case may be, as a scheme or part that would belong to one of the categories of securities scheme or warrant scheme, if that scheme or part, as the case may be, were independently an authorised fund;”.

(10) In the definition of “fund of funds”—

- (a) for ““fund of funds”” substitute ““fund of funds scheme””;
- (b) in paragraph (i)—
  - (i) for “authorised unit trust” substitute “authorised fund”;
  - (ii) for “fund of funds” substitute “fund of funds scheme”;
- (c) in paragraph (ii) for “authorised unit trust” substitute “authorised fund”.

(11) In the definition of a “relevant UCITS”—

- (a) in paragraph (i) for “86 of the Financial Services Act 1986” substitute “264 of the Financial Services and Markets Act 2000”;
- (b) in paragraph (ii) for the words from “an umbrella company” to “in either case” substitute “an umbrella scheme, if the definition of “umbrella scheme” and a part thereof”;
- (c) for “securities fund, warrant fund, securities company or warrant company” substitute “securities scheme or warrant scheme”;

- (d) for the words from “authorised unit trust” to the end substitute “authorised fund;”.
- (12) For the definition of “securities fund” substitute—
- ““securities scheme” means—
- (i) an authorised fund which according to the terms of the scheme is a securities scheme belonging to the category under that name established by the Financial Services Authority, and
  - (ii) a part of an umbrella scheme which the terms of the scheme identify as a part which would belong to that category if it were itself an authorised fund;”.
- (13) For the definition of “umbrella scheme” substitute—
- ““umbrella scheme” means an authorised fund which according to the terms of the scheme is an umbrella scheme belonging to the category under that name established by the Financial Services Authority, and
- (i) in the case of an authorised fund which is an authorised unit trust, references to a part of an umbrella scheme shall be construed in accordance with subsection (8) of section 468 of the Taxes Act, and, in relation to a part of an umbrella scheme, references to investments subject to the trusts of an authorised unit trust and to a unit holder shall be construed in accordance with subsection (9) of that section, and
  - (ii) in the case of an authorised fund which is an open-ended investment company, references to a part of an umbrella scheme shall be construed in accordance with subsection (18) of section 468 of the Taxes Act as that subsection is added in relation to open-ended investment companies by regulation 10(4) of the 1997 Regulations, and, in relation to a part of an umbrella scheme, references to investments of the company shall be construed in accordance with subsection (12) of that section as so added;”.
- (14) For the definitions of “warrant company” and “warrant fund” substitute—
- ““warrant scheme” means—
- (i) an authorised fund which according to the terms of the scheme is a warrant scheme belonging to the category under that name established by the Financial Services Authority, and
  - (ii) a part of an umbrella scheme which the terms of the scheme identify as a part that would belong to that category if it were itself an authorised fund;”.
- (15) In sub-paragraph (c)—
- (a) omit the definitions of “securities company” and “umbrella company”;
  - (b) in the definition of “shares” for “umbrella company” substitute “umbrella scheme”.

### **General investment rules**

- 122.**—(1) Amend regulation 5 (general investment rules)(**115**) as follows.
- (2) In paragraph (1) for sub-paragraphs (a) and (b) substitute—
- “(a) in the case of an authorised fund which is a dual priced unit trust, at the manager’s price for the sale of the relevant class of units within the meaning of, and complying with the requirements of, rule 15.4.4 of the Collective Investment Schemes Sourcebook;
  - (b) in the case of an authorised fund which is a single priced unit trust or an open-ended investment company, at the price of a unit or share within the meaning of, and complying with the requirements of, rule 4.3.11 of the Collective Investment Schemes Sourcebook; and”.

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(115) Regulation 5 was relevantly amended by regulation 6(2) of S.I. 2001/923.



(3) After paragraph (1) insert—

“(1ZA) In paragraph (1)(a) and (b)—

“the Collective Investment Schemes Sourcebook” means the sourcebook of that name made by the Financial Services Authority under the Financial Services and Markets Act 2000(116);

“a dual priced unit trust” means an authorised unit trust in respect of which the manager gives different prices for buying and selling units at the same time;

“a single priced unit trust” means an authorised unit trust in respect of which the manager gives the same price for buying and selling units at the same time.”.

### **Qualifying investments**

**123.**—(1) Amend regulation 6 (qualifying investments)(117) as follows.

(2) In paragraph (2)—

(a) for sub-paragraph (g) substitute—

“(g) units in, or shares of, a securities scheme or a warrant scheme, in circumstances where the scheme satisfies the condition specified in paragraph (8);”;

(b) for sub-paragraph (j) substitute—

“(j) units in, or shares of, a fund of funds scheme, in circumstances where the scheme satisfies the condition specified in paragraph (9);”.

(3) In paragraph (4)(a) for paragraphs (iv) and (v) substitute—

“(iv) units in or shares in, or rights to units in or shares in, an authorised fund or a part of an umbrella scheme;”.

(4) In paragraph (8) for “company” substitute “scheme” (twice).

(5) For paragraph (9) substitute—

“(9) The condition specified in this paragraph is that not more than 50 per cent. in value of the investments of the scheme, or subject to the trusts of the scheme, are—

(a) units in, or shares of, a securities scheme or a warrant scheme, or

(b) units in, or shares of, a relevant UCITS,

where the securities scheme, warrant scheme or UCITS does not satisfy the condition in paragraph (8).”.

### **Plan manager—qualifications and Board’s approval**

**124.** Amend regulation 11(2) (plan manager—qualifications and Board’s approval)(118) as follows—

(a) in sub-paragraph (b)(i) for the words from “Chapter III” to “Act”) substitute

“section 31(1)(a) or (c) of, or Schedule 5 to, the Financial Services and Markets Act 2000 who has permission to carry on one or more of the activities specified in Articles 14, 21, 25, 37, 40, 45, 51 and 53 and, in so far as it applies to any of those activities, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”;

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(116) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

(117) Regulation 6 was substituted by regulation 7 of S.I. 2001/923.

(118) Regulation 11 was amended by regulation 5 of S.I. 1995/3287.

- (b) in paragraph (b)(ii) for the words from “may” to “1992” substitute “carries on one or more of those activities”;
- (c) in sub-paragraph (c) for the words from “any prohibition” to “65 of the 1986 Act” substitute “any requirement imposed under section 43 of the Financial Services and Markets Act 2000, or by any prohibition imposed by or under any rules made by the Financial Services Authority under that Act”.

### Returns of information by plan manager

**125.** In regulation 24A(3) (returns of information by plan manager)(**119**)—

- (a) in sub-paragraph (a) for paragraph (iv) substitute—
  - “(iv) units in, or shares of, securities schemes and warrant schemes,”;
- (b) in sub-paragraph (a) for paragraph (vi) substitute—
  - “(vi) units in, or shares of, fund of funds schemes, and”.

*The Retirement Benefits Schemes (Tax Relief on Contributions)  
(Disapplication of Earnings Cap) Regulations 1990 (S.I. 1990/586)*

### Mis-sold pension contracts—further disapplication of paragraphs 5(4) and 6(5) of Schedule 6 to the Finance Act 1989

**126.**—(1) Amend regulation 6(5) of the Retirement Benefits Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990 (mis-sold pension contracts—further disapplication of paragraphs 5(4) and 6(5) of the Schedule)(**120**) as follows.

- (2) In the definition of “bad investment advice” for paragraph (d) substitute—
  - “(d) by reason of a contravention which is actionable—
    - (i) under section 62 of the Financial Services Act 1986; or
    - (ii) under section 150 of the Financial Services and Markets Act 2000;”.
- (3) For the definition of “investment advice” substitute—
  - ““investment advice”—
    - (a) in relation to a time before 1st December 2001, means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986; and
    - (b) in relation to a time on or after that date, means advice such as is mentioned in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

*The Retirement Benefits Schemes (Continuation of Rights of  
Members of Approved Schemes) Regulations 1990 (S.I. 1990/2101)*

### Interpretation

**127.**—(1) Amend regulation 2(1) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990 (interpretation)(**121**) as follows.

- (2) In the definition of “bad investment advice” for paragraph (d) substitute—
  - “(d) by reason of a contravention which is actionable—

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(119) Regulation 24A was inserted by regulation 13 of S.I. 1993/756 and relevantly amended by regulation 12 of S.I. 2001/923.

(120) Regulation 6 was added by regulation 5 of S.I. 1996/3113.

(121) Regulation 2(1) was relevantly amended by regulation 3(a) and (b) of S.I. 1996/3114.

- (i) under section 62 of the Financial Services Act 1986; or
  - (ii) under section 150 of the Financial Services and Markets Act 2000;”.
- (3) For the definition of “investment advice” substitute—
- ““investment advice”—
  - (a) in relation to a time before 1st December 2001, means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986; and
  - (b) in relation to a time on or after that date, means advice such as is mentioned in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

*The Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (S.I. 1990/2231)*

### **Gross payments**

**128.** In regulation 4(1)(r) of the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (gross payments)(**122**) for “75(8) of the Financial Services Act 1986” substitute “237(1) of the Financial Services and Markets Act 2000”.

*The Tax-exempt Special Savings Account Regulations 1990 (S.I. 1990/2361)*

### **Introduction**

**129.** Amend the Tax-exempt Special Savings Account Regulations 1990 in accordance with Articles 130 to 133.

### **Interpretation**

**130.** In regulation 2(1) (interpretation)(**123**) for the definition of a “society or institution” substitute—

“a “society, person or institution” means a building society or a person falling within section 840A(1)(b) of the Taxes Act or a relevant European institution;”.

### **Notification by society or institution of intention to operate accounts**

**131.** In regulation 5(3) (notification by society or institution of intention to operate accounts)(**124**) for “is authorised under the Banking Act 1987” substitute “falls within section 840A(1)(b) of the Taxes Act”.

### **Society or institution ceasing to be entitled to operate accounts**

**132.** In regulation 11(a) (society or institution ceasing to be entitled to operate accounts) (**125**) for “be authorised under the Banking Act 1987” substitute “fall within section 840A(1)(b) of the Taxes Act”.

### **Miscellaneous amendments**

**133.**—(1) In the following regulations after “societies” insert “, persons”—

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(122) Regulation 4(1)(r) was added by regulation 4(1)(a)(v) of S.I. 1992/2915.

(123) Regulation 2 was relevantly amended by regulation 3(1) of S.I. 1995/1929 and regulation 8(c) of S.I. 1995/3239.

(124) Regulation 5 was amended by regulation 9 of S.I. 1995/3239.

(125) Regulation 11(a) was amended by regulation 10(a) of S.I. 1995/3239.

- (a) regulation 3(b), (c) and (cd)(**126**);
  - (b) regulation 12(3)(a) (twice) and (d).
- (2) In the following places after “society” insert “, person”—
- (a) regulation 3(cc) and (d);
  - (b) regulation 4 (three times);
  - (c) the heading to regulation 5 and paragraphs (1) and (3) of that regulation;
  - (d) regulation 6(1), (3)(b) and (c) and (5)(**127**);
  - (e) regulation 7(1)(a) (twice) and (3)(b)(iii);
  - (f) regulation 7A(1) (twice), (2), (3)(b)(i) and (ii) and (4)(**128**);
  - (g) regulation 7B(1), (2)(a) and (b) (twice);
  - (h) regulation 8(1) (twice), (2), (3)(a) and (4);
  - (i) regulation 9(1);
  - (j) the heading to regulation 10 and that regulation (twice);
  - (k) the heading to regulation 11 and that regulation;
  - (l) the heading to regulation 12 and paragraphs (1) (three times), (2) and (3) (four times) of that regulation(**129**);
  - (m) the heading to regulation 13 and paragraphs (1) (three times) and (3) (six times) of that regulation(**130**);
  - (n) the heading to regulation 14 and paragraphs (1) and (2) (twice) of that regulation(**131**);
  - (o) regulation 15;
  - (p) regulation 16(**132**).

*The Debts of Overseas Governments (Determination of Relevant Percentage) Regulations 1990 (S.I. 1990/2529)*

**A, B and C factors: introductory**

**134.** In Schedule 1 to the Debts of Overseas Governments (Determination of Relevant Percentage) Regulations 1990 in paragraph 1(1) (A, B and C factors: introductory) in the definition of “regional development bank” for the words from “for the time” to “1987” substitute “listed in Part I of the Financial Services and Markets Act 2000 (Exemption) Order 2001”.

*The Inheritance Tax (Market Makers) Regulations 1992 (S.I. 1992/3181)*

**Modification of sections 105(7) and 234(4) of the Inheritance Tax Act 1984**

**135.** In regulation 4(a) of the Inheritance Tax (Market Makers) Regulations 1992 (modification of subsection (7) and subsection (4)) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

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(126) Regulation 3 was amended by regulation 4 of S.I. 1995/1929.

(127) Regulation 6 was amended by regulation 5 of S.I. 1995/1929.

(128) Regulation 7A was inserted, together with regulation 7B, by regulation 7 of S.I. 1995/1929.

(129) Regulation 12 was amended by regulation 8 of S.I. 1995/1929.

(130) Regulation 13 was amended by regulation 9 of S.I. 1995/1929.

(131) Regulation 14 was substituted by regulation 10 of S.I. 1995/1929.

(132) Regulation 16 was amended by regulation 11 of S.I. 1995/3239.

*The Income Tax (Prescribed Deposit-takers) Order 1992 (S.I. 1992/3234)*

**Meaning of European deposit-taker**

**136.** For Article 2(2) of the Income Tax (Prescribed Deposit-takers) Order 1992 (meaning of European deposit-taker) substitute—

“(2) In paragraph (1) above, “European deposit-taker” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

*The Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) Regulations 1994 (S.I. 1994/3227)*

**Settlement and replacement of debts**

**137.** In regulation 2(4) of the Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) Regulations 1994 (reduction in exchange gains and losses) for “long term” substitute “long-term” (twice).

*The Exchange Gains and Losses (Insurance Companies) Regulations 1994 (S.I. 1994/3231)*

**Specified assets**

**138.** In regulation 7(9) and (13) of the Exchange Gains and Losses (Insurance Companies) Regulations 1994 (specified assets)(**133**) for “long term business” substitute “long-term insurance”.

*The Lloyd’s Underwriters (Tax) Regulations 1995 (S.I. 1995/351)*

**Cessation of individual member’s underwriting business—terminal loss relief**

**139.** In regulation 14(2) of the Lloyd’s Underwriters (Tax) Regulations 1995 (cessation of individual member’s underwriting business—terminal loss relief) for “premiums” substitute “premium”.

*The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730)*

**Prescribed percentage rates of return**

**140.** In regulation 7(11) of the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (prescribed percentage rates of return for the purposes of regulations 4 and 5)—

- (a) in sub-paragraph (a) for “long term” substitute “long-term”;
- (b) in sub-paragraph (b)(i) and (ii) for “long term business” substitute “long-term insurance”.

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(133) Regulation 7 was added by regulation 4 of S.I. 1996/673.

*The Retirement Benefits Schemes (Information Powers) Regulations 1995 (S.I. 1995/3103)*

**Reporting of chargeable events**

**141.** In regulation 13(2)(b) of the Retirement Benefits Schemes (Information Powers) Regulations 1995 (reporting of chargeable events) for “section 96D of the Insurance Companies Act 1982” substitute “sections 417(1) and 423 of the Financial Services and Markets Act 2000 respectively”.

*The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 (S.I. 1995/3237)*

**Miscellaneous amendments**

**142.** In the following regulations of the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 for “long term” substitute “long-term”—

- (a) regulation 2(1)(**134**) (twice);
- (b) regulation 5(1A)(a)(i) and (ii)(**135**);
- (c) regulation 7(1A)(a)(i) and (ii)(**136**);
- (d) regulation 7A(2)(a)(i) and (ii)(**137**);
- (e) regulation 8(1A)(a)(i) and (ii)(**138**);
- (f) regulation 13(1A)(a)(i) and (ii)(**139**);
- (g) regulation 14(1A)(a)(i) and (ii)(**140**);
- (h) regulation 14A(2)(a)(i) and (ii)(**141**).

*the Capital Gains Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. 1996/1583)*

**Interpretation**

**143.** In regulation 2 of the Capital Gains Tax (Pension Funds Pooling Schemes) Regulations 1996 (interpretation) in the definition of “unit trust scheme” for “75(8) of the Financial Services Act 1986” substitute “237(1) of the Financial Services and Markets Act 2000”.

*The Stamp Duty and Stamp Duty Reserve Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. 1996/1584)*

**Interpretation**

**144.** In regulation 2 of the Stamp Duty and Stamp Duty Reserve Tax (Pension Funds Pooling Schemes) Regulations 1996 in the definition of “unit trust scheme” for “75(8) of the Financial Services Act 1986” substitute “237(1) of the Financial Services and Markets Act 2000”.

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(134) Regulation 2(1) was relevantly amended by regulation 3(2) and (4) of S.I. 1999/2839.

(135) Regulation 5(1A) was inserted by regulation 5(3) of S.I. 1999/2839.

(136) Regulation 7(1A) was inserted by regulation 6(3) of S.I. 1999/2839.

(137) Regulation 7A was inserted by regulation 7 of S.I. 1999/2839.

(138) Regulation 8(1A) was inserted by regulation 8(3) of S.I. 1999/2839.

(139) Regulation 13(1A) was inserted by regulation 13(2) of S.I. 1999/2839.

(140) Regulation 14(1A) was inserted by regulation 14(3) of S.I. 1999/2839.

(141) Regulation 14A was inserted by regulation 15 of S.I. 1999/2839.

*The Income Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. 1996/1585)*

**Interpretation**

**145.**—(1) Amend regulation 2 of the Income Tax (Pension Funds Pooling Schemes) Regulations 1996 as follows.

(2) In paragraph (1) in the definition of “units” and “unit trust scheme” for “75(8) of the Financial Services Act 1986” substitute “237 of the Financial Services and Markets Act 2000”.

(3) In paragraph (4) for the words from “within” to “1986” substitute “and, for the purposes of this paragraph, “participant” shall be construed in accordance with section 235 of the Financial Services and Markets Act 2000”.

*the Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. 1996/2991)*

**Introduction**

**146.** Amend the Insurance Companies (Reserves) (Tax) Regulations 1996 in accordance with Articles 147 to 151.

**Interpretation**

**147.**—(1) Amend regulation 2(1) (interpretation) as follows.

(2) After the definition of “branch” insert—

““company tax return” has the meaning given by paragraph 3(1) of Schedule 18 to the Finance Act 1998;”

(3) For the definition of “EC Company” substitute—

““EEA firm” means an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;”.

(4) After the definition of “equivalent reserve” insert—

““equalisation reserves rules” means the rules in Chapter 6 of the Prudential Sourcebook (Insurers);”.

(5) Omit the definition of “the Management Act”.

(6) After the definition of “paragraph 52 method of accounting on a non-annual basis” insert—

““the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.

(7) In the definition of “return period” for “17 of the 1982 Act” substitute “9.3 of the Prudential Sourcebook (Insurers)”.

(8) Omit the definition of “section 34A regulations”.

(9) After the definition of “the Taxes Act” insert—

““Treaty firm” means a firm which has permission under paragraph 4 of Schedule 4 to the Financial Services and Markets Act 2000 (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom and, in this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(10) Omit the definition of “the 1982 Act”.

(11) The amendments made by paragraphs (2), (4) to (8) and (10) above have effect in relation to periods of account ending on or after 1st December 2001.

### **Non-annual accounts: tax returns prepared on an annual basis**

**148.**—(1) Amend regulation 5 (non-annual accounts: tax returns prepared on an annual basis) as follows.

- (2) In paragraph (1)—
  - (a) in sub-paragraph (a) for “17 of the 1982 Act” substitute “9.3 of the Prudential Sourcebook (Insurers)”;
  - (b) in sub-paragraph (b) for “return under section 11 of the Management Act” substitute “company tax return”.
- (3) In paragraph (4)—
  - (a) for “Secretary of State pursuant to section 22 of the 1982 Act” substitute “Financial Services Authority pursuant to Chapter 9 of the Prudential Sourcebook (Insurers)”;
  - (b) for “prescribed by the Insurance Companies (Accounts and Statements) Regulations 1996” substitute “prescribed by the Accounts and Statements Rules contained in that Chapter”.
- (4) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **EEA firms and Treaty firms**

**149.**—(1) For the heading to regulation 7 (EC companies) substitute “EEA firms and Treaty firms” and amend that regulation as follows.

- (2) In paragraph (1)(a) for “EC Company” substitute “EEA firm or a Treaty firm”.
- (3) In paragraph (2) for “return under section 11 of the Management Act” substitute “company tax return”.
- (4) The amendment made by paragraph (3) has effect in relation to periods of account ending on or after 1st December 2001.

### **Certain business carried on outside the United Kingdom**

**150.**—(1) Amend regulation 8 (certain business carried on outside the United Kingdom)(**142**) as follows.

- (2) In paragraph (1)(a) omit “(within the meaning of the 1982 Act)”.
- (3) After paragraph (5) add—
  - “(6) In paragraph (1)(a) “insurance business” means business which consists of the effecting or carrying out of contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### **Miscellaneous amendments**

**151.**—(1) For “section 34A regulations” substitute “equalisation reserves rules” in the following places—

- (a) regulation 3(3)(a);
- (b) regulation 4(1)(a);
- (c) regulation 5(2) (twice);
- (d) regulation 6(1), (2) and (4);
- (e) regulation 7(1)(a), (3) and (6);

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(142) Regulation 8 was amended by regulation 7(2) of S.I. 1999/1408.



- (f) regulation 8(1)(a), (2) and (4);
  - (g) regulation 8A(3)(143);
  - (h) the heading to regulation 9 and paragraph (3) of that regulation;
  - (i) regulation 10(1), (2)(a), (3) and (5);
  - (j) regulation 12.
- (2) This Article has effect in relation to periods of account ending on or after 1st December 2001.

*The Friendly Societies (Modification of the Corporation  
Tax Acts) Regulations 1997 (S.I. 1997/473)*

## **Introduction**

**152.** Amend the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 in accordance with Articles 153 to 165.

## **Interpretation**

**153.**—(1) Amend regulation 2 (interpretation) as follows.

(2) After the definition of “directive society” insert—

““general business” means business which consists of the effecting or carrying out of contracts that fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(3) In the definition of “linked business” for “within Class III of Head A of Schedule 2 to the Friendly Societies Act 1992” substitute “of effecting or carrying out contracts of insurance which fall within paragraph III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”.

(4) In the definition of “section 37(3) society” for paragraph (b) substitute—

“(b) is subject to relevant section 43 requirements;”.

(5) After the definition of “section 37(3) society” insert—

““relevant section 43 requirements” means requirements imposed, or treated as imposed, under section 43 of the Financial Services and Markets Act 2000 which—

- (a) are intended to secure that the society’s long-term business and general business are kept separate; and
- (b) subject to any exceptions or other conditions, require that the assets representing the funds maintained in respect of the society’s long-term business or, as the case may be, its general business are to be generally applicable for the purposes of that business only;”.

## **Modifications of section 12 of the Income and Corporation Taxes Act 1988**

**154.**—(1) In the heading to regulation 4 (modification of section 12(7A) of the Taxes Act)—

(a) for “Modification” substitute “Modifications”;

(b) omit “(7A)”.

(2) Amend regulation 4 in accordance with paragraphs (3) and (4) below.

(3) In paragraph (1) for “Paragraph (2) prescribes a modification of section 12(7A)” substitute “Paragraphs (2) and (3) prescribe modifications of section 12”.

(4) For paragraph (2) substitute—

“(2) In subsection (7A) for the words from “an insurance business transfer scheme has effect to transfer from a company to another person” there shall be substituted the words “there is a transfer from a company to another person of”.

(3) In subsection (7B) the definition of “insurance business transfer scheme” shall be omitted.”.

### **Modification of section 76(7) of the Income and Corporation Taxes Act 1988**

**155.** Omit regulation 5(6) (modification of section 76(7) of the Income and Corporation Taxes Act 1988).

### **Modifications of section 431 of the Income and Corporation Taxes Act 1988**

**156.**—(1) Amend regulation 6 (modifications of section 431 of the Taxes Act) as follows.

(2) In paragraph (2) in the inserted definition of “valuation report”—

(a) in paragraph (a) for “section 46(3) of the Friendly Societies Act 1992” substitute “rule 5.1(2) of the Prudential Sourcebook (Friendly Societies)”;

(b) in paragraph (b) for “section 47(2) of the Friendly Societies Act 1992” substitute “rule 5.2(2) of the Prudential Sourcebook (Friendly Societies)”.

(3) In paragraph (2) after the inserted definition of “non-directive society” insert—

““the Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.

(4) In paragraph (3) in the substituted definition of “liabilities” in paragraph (b)(ii) for “section 47(2) of the Friendly Societies Act 1992” substitute “rule 5.2(2) of the Prudential Sourcebook (Friendly Societies)”.

(5) In paragraph (5) in the substituted definition of “periodical return”—

(a) in paragraph (a) for the words from “means” to the end substitute “means the FSC1 return within the meaning given in Chapter 5 of the Prudential Sourcebook (Friendly Societies); and”;

(b) in paragraph (b) for “its valuation report” substitute “the FSC2 return within the meaning given in that Chapter”.

(6) In paragraph (6) in the substituted definition of “value” in paragraph (b)(ii) for “section 47(2) of the Friendly Societies Act 1992” substitute “rule 5.2(2) of the Prudential Sourcebook (Friendly Societies)”.

(7) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Modifications of section 432A of the Income and Corporation Taxes Act 1988**

**157.**—(1) Amend regulation 9 (modifications of section 432A of the Taxes Act) as follows.

(2) In paragraph (2) in the inserted subsection (1B) in paragraph (a) for “section 46(5) of the Friendly Societies Act 1992” substitute “rule 5.1(3) of the Prudential Sourcebook (Friendly Societies)”.

(3) In paragraph (3) in the inserted subsection (1E)—

(a) for the words from “Friendly Societies Commission” to “1992” substitute “Financial Services Authority, by giving a direction under section 148 of the Financial Services and Markets Act 2000”;

(b) for “subsection (2) of that section” substitute “rule 5.2 of the Prudential Sourcebook (Friendly Societies)”.

(4) This Article has effect in relation to periods of account ending on or after 1st December 2001.

#### **Modifications of section 440 of the Income and Corporation Taxes Act 1988**

**158.**—(1) In regulation 22(1)(b) (modifications of section 440 of the Taxes Act) for the words from “conditions” to “1992” substitute “relevant section 43 requirements”.

(2) In regulation 23 (modifications of section 440 of the Taxes Act) for paragraph (2) substitute—  
“ (2) For the words “an insurance business transfer scheme which has effect to transfer” there shall be substituted the words “a transfer of”.”.

#### **Modifications of section 444A of the Income and Corporation Taxes Act 1988**

**159.** In regulation 30 (modification of section 444A(1) of the Taxes Act) for paragraph (2) substitute—

“ (2) For the words “where an insurance business transfer scheme has effect to transfer” there shall be substituted the words “where there is a transfer of”.”.

#### **Modifications of section 83 of the Finance Act 1989**

**160.**—(1) Amend regulation 35 (modifications of section 83 of the Finance Act 1989) as follows.

(2) In paragraph (1) for “Paragraph (2) prescribes a modification of section 83(6)” substitute “Paragraphs (2) and (3) prescribe modifications of section 83”.

(3) For paragraph (2) substitute—

“ (2) In subsection (6)(a) the words “effected under an insurance business transfer scheme” shall be omitted.

(3) In subsection (6A) the definition of “insurance business transfer scheme” shall be omitted.”.

#### **Modifications of section 211 of the Taxation of Chargeable Gains Act 1992**

**161.**—(1) In the heading to regulation 44 (modification of section 211(1) of the 1992 Act)—

(a) for “Modification” substitute “Modifications”;

(b) omit “(1)”.

(2) Amend regulation 44 in accordance with paragraphs (3) and (4) below.

(3) In paragraph (1) for “Paragraph (2) prescribes a modification of section 211(1)” substitute “Paragraphs (2) and (3) prescribe modifications of section 211”.

(4) For paragraph (2) substitute—

“ (2) In subsection (1) for the words “where an insurance business transfer scheme has effect to transfer” there shall be substituted the words “where there is a transfer of”.

(3) In subsection (1A) omit the definition of “insurance business transfer scheme”.”.

#### **Modifications of section 213 of the Taxation of Chargeable Gains Act 1992**

**162.** In regulation 47 (modifications of section 213 of the 1992 Act) for paragraph (2) substitute—

“(2) For the words “an insurance business transfer scheme has effect to transfer” there shall be substituted the words “there is a transfer of”.”.

### **Modifications of paragraph 12 of Schedule 9 to the Finance Act 1996**

**163.**—(1) Amend regulation 52 (modifications of paragraph 12 of Schedule 9 to the Finance Act 1996) as follows.

(2) In paragraph (1) for “Paragraphs (2) and (3)” substitute “Paragraphs (2) to (4)”.

(3) For paragraph (2) substitute—

“(2) In sub-paragraph (1)(c) the words “which has effect under an insurance business transfer scheme” shall be omitted.”.

(4) After paragraph (3) add—

“(4) In sub-paragraph (9) the definition of “insurance business transfer scheme” shall be omitted.”.

### **Modification of paragraph 18 of Schedule 12 to the Finance Act 1997**

**164.**—(1) In regulation 53A (modification of paragraph 18 of Schedule 12 to the Finance Act 1997)(**144**) for paragraph (2) substitute—

“(2) In sub-paragraph (1) for the words “Chapter 9 of the Prudential Sourcebook (Insurers)” there shall be substituted the words “Chapter 5 of the Prudential Sourcebook (Friendly Societies)”.

(3) In sub-paragraph (2) for the words ““the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers” substitute the words ““Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies””.

(2) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Miscellaneous amendments**

**165.**—(1) In the following regulations for “long term business fund” substitute “long-term insurance fund”—

(a) regulation 13(5) (in the added subsection (11));

(b) regulation 34(2) (in the inserted subsection (2A));

(c) regulation 45(3) (in the added subsection (9)).

(2) In the following places for “long term” substitute “long-term”—

(a) in the heading to regulation 3 and in paragraph (1) of that regulation;

(b) regulation 6(4) (twice);

(c) regulation 13(5) (in the added subsections (11)(a) and (b) and (12)(a)(twice) and (b));

(d) regulation 22(1)(b);

(e) regulation 36(2) (in the substituted subsection (2)(a) and (b)).

*The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154)*

**Modifications of section 468 of the Income and Corporation Taxes Act 1988**

**166.**—(1) Amend regulation 10(4) of the Open-ended Investment Companies (Tax) Regulations 1997 (modifications of section 468) as follows.

- (2) In the added subsection (10)—
  - (a) in the definition of “authorised corporate director” for “of the Financial Services Act 1986” substitute “given by section 31(2) of the Financial Services and Markets Act 2000”;
  - (b) in the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”;
  - (c) in the definition of “open-ended investment company” for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.
- (3) In the added subsection (18)—
  - (a) in paragraph (a)—
    - (i) for “open-ended investment company” substitute “an open-ended investment company”
    - (ii) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”;
  - (b) in paragraph (c) for “75(3)(a)” substitute “235(a)”.

*The Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/1156)*

**Interpretation**

**167.** In regulation 2 of the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (interpretation) in the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.

*The Individual Savings Account Regulations 1998 (S.I. 1998/1870)*

**Introduction**

**168.** Amend the Individual Savings Account Regulations 1998 in accordance with Articles 169 to 178.

**Interpretation**

- 169.**—(1) Amend regulation 2(1) (interpretation)(**145**) as follows.
- (2) Amend sub-paragraph (a) in accordance with paragraphs (3) to (6) below.
  - (3) In the definition of “account” in paragraph (iv) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b) of the Taxes Act”.
  - (4) In the definition of “company” in paragraph (i) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.
  - (5) For the definition of “European institution” substitute—

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(145) Regulation 2(1) was relevantly amended by regulation 3(3)(a) and (c) of S.I. 1998/3174.

““European institution” means an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000 which is an authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule;”.

- (6) Omit the definition of “long term business”.
- (7) Amend sub-paragraph (b) in accordance with paragraphs (8) to (17) below.
- (8) Before the definition of “authorised unit trust” insert—
- ““authorised fund” means—
- (i) an authorised unit trust, or
  - (ii) an open-ended investment company with variable capital incorporated in the United Kingdom in the case of which an authorisation order made by the Financial Services Authority under regulation 14 of the Open-Ended Investment Companies Regulations 2001 is in force;”.
- (9) In the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.
- (10) In the definition of “the first condition” for the words from “subject to” to the end substitute “of the scheme, or subject to the trusts of the scheme, to consist of units in, or shares of, authorised funds or parts of umbrella schemes which are not securities schemes or warrant schemes”.
- (11) In the definition of “the second condition”—
- (a) for “subject to the trusts of the scheme” substitute “of the scheme, or subject to the trusts of the scheme”;
  - (b) in paragraph (i) for “87 or 88 of the Financial Services Act 1986” substitute “270 or 272 of the Financial Services and Markets Act 2000”;
  - (c) for paragraph (ii) and the words immediately after it substitute—
 

“(ii) a part of a scheme mentioned in paragraph (i) which would be a part of an umbrella scheme if the definition of “umbrella scheme” and a part thereof applied to a scheme mentioned in paragraph (i),

where the terms of the scheme mentioned in paragraph (i) identify that scheme, or part thereof, as the case may be, as a scheme or part that would belong to one of the categories of securities scheme or warrant scheme, if that scheme or part, as the case may be, were independently an authorised fund;”.
- (12) In the definition of “fund of funds”—
- (a) for ““fund of funds”” substitute ““funds of funds scheme””;
  - (b) in paragraph (i)—
    - (i) for “authorised unit trust” substitute “authorised fund”;
    - (ii) for “fund of funds” substitute “fund of funds scheme”;
  - (c) in paragraph (ii) for “authorised unit trust” substitute “authorised fund”.
- (13) In the definition of “money market fund”—
- (a) for ““money market fund”” substitute ““money market scheme””;
  - (b) in paragraph (i)—
    - (i) for “authorised unit trust” substitute “authorised fund”;
    - (ii) for “money market fund” substitute “money market scheme”;
  - (c) in paragraph (ii) for “authorised unit trust” substitute “authorised fund”.
- (14) In the definition of a “relevant UCITS”—

- (a) in paragraph (i) for “86 of the Financial Services Act 1986” substitute “264 of the Financial Services and Markets Act 2000”;
  - (b) in paragraph (ii) for the words from “an umbrella company” to “in either case” substitute “an umbrella scheme, if the definition of “umbrella scheme” and a part thereof”;
  - (c) for “securities fund, warrant fund, securities company or warrant company” substitute “securities scheme or warrant scheme”;
  - (d) for the words from “authorised unit trust or an open-ended investment company” to the end substitute “authorised fund;”.
- (15) For the definitions of “securities company” and “securities fund” substitute—
- ““securities scheme” means—
- (i) an authorised fund which according to the terms of the scheme is a securities scheme belonging to the category under that name established by the Financial Services Authority, and
  - (ii) a part of an umbrella scheme which the terms of the scheme identify as a part which would belong to that category if it were itself an authorised fund;”.
- (16) For the definition of “umbrella company” and “umbrella scheme” substitute—
- ““umbrella scheme” means an authorised fund which according to the terms of the scheme is an umbrella scheme belonging to the category under that name established by the Financial Services Authority, and
- (i) in the case of an authorised fund which is an authorised unit trust, references to a part of an umbrella scheme shall be construed in accordance with subsection (8) of section 468 of the Taxes Act, and, in relation to a part of an umbrella scheme, references to investments subject to the trusts of an authorised unit trust and to a unit holder shall be construed in accordance with subsection (9) of that section, and
  - (ii) in the case of an authorised fund which is an open-ended investment company, references to a part of an umbrella scheme shall be construed in accordance with subsection (18) of section 468 of the Taxes Act as that subsection is added in relation to open-ended investment companies by regulation 10(4) of the 1997 Regulations, and, in relation to a part of an umbrella scheme, references to investments of the company shall be construed in accordance with subsection (12) of that section as so added;”.
- (17) For the definitions of “warrant company” and “warrant fund” substitute—
- ““warrant scheme” means—
- (i) an authorised fund which according to the terms of the scheme is a warrant scheme belonging to the category under that name established by the Financial Services Authority, and
  - (ii) a part of an umbrella scheme which the terms of the scheme identify as a part that would belong to that category if it were itself an authorised fund;”.

### **Transfers from matured tax-exempt special savings accounts**

**170.** In regulation 5(3)(a) and (b) (twice), (4)(b)(i) and (ii) and (5) (transfers from matured tax-exempt special savings accounts) after “society” insert “, person”.

### **General investment rules**

- 171.**—(1) Amend regulation 6 (general investment rules) as follows.
- (2) In paragraph (1) for sub-paragraphs (a) and (b) substitute—

- “(a) in the case of an authorised fund which is a dual priced unit trust, at the manager’s price for the sale of the relevant class of units within the meaning of, and complying with the requirements of, rule 15.4.4 of the Collective Investment Schemes Sourcebook;
  - (b) in the case of an authorised fund which is a single priced unit trust or an open-ended investment company, at the price of a unit or share within the meaning of, and complying with the requirements of, rule 4.3.11 of the Collective Investment Schemes Sourcebook; and”.
- (3) After paragraph (1) insert—
- “(1ZA) In paragraph (1)(a) and (b)—
    - “the Collective Investment Scheme Sourcebook” means the sourcebook of that name made by the Financial Services Authority under the Financial Services and Markets Act 2000<sup>(146)</sup>;
    - “a dual priced unit trust” means an authorised unit trust in respect of which the manager gives different prices for buying and selling units at the same time;
    - “a single priced unit trust” means an authorised unit trust in respect of which the manager gives the same price for buying and selling units at the same time.”.

### **Qualifying investments for a stocks and shares component**

**172.**—(1) Amend regulation 7 (qualifying investments for a stocks and shares component) as follows.

- (2) In paragraph (2)—
  - (a) for sub-paragraph (e) substitute—
    - “(e) units in, or shares of, a securities scheme or a warrant scheme, in circumstances where the scheme satisfies the condition specified in paragraph (8);”;
  - (b) for sub-paragraph (g) substitute—
    - “(g) units in, or shares of, a fund of funds scheme, in circumstances where the scheme satisfies the condition specified in paragraph (9);”.
- (3) In paragraph (4)(a) for paragraphs (iv) and (v) substitute—
  - “(iv) units in or shares in, or rights to units in or shares in, an authorised fund or a part of an umbrella scheme;”.
- (4) In paragraph (8) for “company” substitute “scheme” (twice).
- (5) For paragraph (9) substitute—
  - “(9) The condition specified in this paragraph is that not more than 50 per cent. in value of the investments of the scheme, or subject to the trusts of the scheme, are—
    - (a) units in, or shares of, a securities scheme or a warrant scheme, or
    - (b) units in, or shares of, a relevant UCITS,
 where the securities scheme, warrant scheme or UCITS does not satisfy the condition in paragraph (8).”.

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<sup>(146)</sup>This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).



### **Qualifying investments for a cash component**

**173.** In regulation 8(2) (qualifying investments for a cash component)(**147**)—

- (a) in sub-paragraph (a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b) of the Taxes Act”;
- (b) for sub-paragraph (c) substitute—
  - “(c) units in, or shares of, a money market scheme;”;
- (c) for sub-paragraph (d) substitute—
  - “(d) units in, or shares of, a fund of funds scheme, within the meaning given in regulation 2(1)(b), with the modification that for the words from “comply with” to the end there are substituted the words  
“permit the investments of the scheme, or subject to the trusts of the scheme, to consist only of units in, or shares of, money market schemes;”.”

### **Qualifying investments for an insurance component**

**174.** In regulation 9(3) (qualifying investments for an insurance component) for sub-paragraph (c) substitute—

- “(c) the policy evidences or secures a contract of insurance which—
  - (i) falls within paragraph I or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or
  - (ii) would fall within either of those paragraphs if the insurer was a company with permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;”.

### **Account manager—qualifications and Board’s approval**

**175.** Amend regulation 14(2) (account manager—qualifications and Board’s approval)(**148**) as follows—

- (a) in sub-paragraph (b)(i) for the words from “Chapter III” to “Act”) substitute  
“section 31(1)(a) or (c) of, or Schedule 5 to, the Financial Services and Markets Act 2000 who has permission to carry on one or more of the activities specified in Articles 14, 21, 25, 37, 40, 45, 51 and 53 and, in so far as it applies to any of those activities, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 but excluding any person falling within paragraph (iv) below”;
- (b) in sub-paragraph (b)(ii) for the words from “may” to “1992” substitute “carries on one or more of those activities”;
- (c) in sub-paragraph (b)(iii) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b) of the Taxes Act”;
- (d) in sub-paragraph (c) for the words from “any prohibition” to “65 of the 1986 Act” substitute “any requirement imposed under section 43 of the Financial Services and Markets Act 2000, or by any prohibition imposed by or under any rules made by the Financial Services Authority under that Act”.

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(147) Regulation 8(2) was relevantly amended by regulation 6 of S.I. 1998/3174.

(148) Regulation 14(2) was amended by regulation 8 of S.I. 1998/3174.

### **Account manager ceasing to qualify**

**176.** In regulation 20(1)(d) (account manager ceasing to qualify)—

- (a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b) of the Taxes Act”;
- (b) in paragraph (i) for “be authorised under the Banking Act 1987” substitute “fall within section 840A(1)(b) of the Taxes Act”.

### **Returns of information by account manager**

**177.** In regulation 31(4) (returns of information by account manager)—

- (a) in sub-paragraph (a) for paragraph (iv) substitute—  
“(iv) units in, or shares of, securities schemes and warrant schemes.”;
- (b) in sub-paragraph (a) for paragraph (vi) substitute—  
“(vi) units in, or shares of, fund of funds schemes, and”;
- (c) in sub-paragraph (b) for paragraph (i) substitute—  
“(i) units in, or shares of, money market schemes and fund of funds schemes within the meaning given by regulation 8(2)(d).”.

### **Capital gains tax—adaptation of enactments**

**178.** In regulation 34(4) (capital gains tax—adaptation of enactments) for the words from “in relation to” to “company” substitute “in relation to qualifying investments falling within any of sub-paragraphs (a), (b), (d), (e), (f), (g) and (h) of regulation 7(2)”.

*The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871)*

### **Tax credits on distributions to insurance companies**

**179.** In regulation 4(1) of the Individual Savings Account (Insurance Companies) Regulations 1998 (tax credits on distributions to insurance companies) for “long term business” substitute “long-term insurance”.

*The Controlled Foreign Companies (Excluded Countries) Regulations 1998 (S.I. 1998/3081)*

### **Interpretation**

**180.** In regulation 2(1) of the Controlled Foreign Companies (Excluded Countries) Regulations 1998 (interpretation) in the definition of “insurance company” for the words from ““long-term business”” to “1982” substitute “the business of effecting or carrying out contracts which fall within Part I or II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”.

*The Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175)*

### **Anti-avoidance provision**

**181.** In regulation 14(6)(b)(ii) of the Corporation Tax (Instalment Payments) Regulations 1998 (anti-avoidance provision) for “long term” substitute “long-term”.

*The Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999 (S.I. 1999/622)*

**Substitution of paragraph 1(5) of Schedule 19AB**

**182.** In regulation 5(2) of the Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999 (substitution of paragraph 1(5) of Schedule 19AB where regulation 4 applies)—

- (a) in the substituted sub-paragraphs (5)(a)(ii) and (c), (5A)(c) and (5D) (twice) for “long term business fund” substitute “long-term insurance fund”;
- (b) in the substituted sub-paragraph (5D)(b) for “long term” in the first place where it occurs substitute “long-term”.

*The Personal Portfolio Bonds (Tax) Regulations 1999 (S.I. 1999/1029)*

**Introduction**

**183.** Amend the Personal Portfolio Bonds (Tax) Regulations 1999 in accordance with Articles 184 and 185.

**Interpretation**

**184.—**(1) Amend regulation 2(1) (interpretation) as follows.

(2) In the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”.

(3) In the definition of “internal linked fund” for the words from “regulation” to “1996” substitute “section 11.1 of the Prudential Sourcebook (Insurers) and in this definition “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000”.

(4) In the definition of “insurance company” for “an insurance” to “1982” substitute “an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”.

(5) In the definition of “warrant” for the words from “paragraphs” to “1986” substitute “paragraph 14 of Schedule 2 to the Financial Services and Markets Act 2000”.

(6) The amendment made by paragraph (3) above has effect in relation to periods of account ending on or after 1st December 2001.

**Definition of personal portfolio bond (applying to all policies or contracts whenever issued or made)**

**185.** In regulation 4(4)(c) (definition of personal portfolio bond (applying to all policies or contracts whenever issued or made)) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.

*The Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999 (S.I. 1999/2383)*

**Interpretation**

**186.** In regulation 2 of the Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999 (interpretation) in the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”.

*The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000 (S.I. 2000/2089)*

**Interpretation**

**187.** In regulation 2(1) of the Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000 (interpretation) in the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”.

*The Personal Pension Schemes (Information Powers) Regulations 2000 (S.I. 2000/2316)*

**Annuity contracts**

**188.** In regulation 7 of the Personal Pension Schemes (Information Powers) Regulations 2000 (annuity contracts) for “section 96D of the Insurance Companies Act 1982” substitute “sections 417(1) and 423 of the Financial Services and Markets Act 2000 respectively”.

*The Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117)*

**Interpretation**

**189.** In regulation 2(1) of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (interpretation) in the definition of “authorised unit trust” for “78 of the Financial Services Act 1986” substitute “243 of the Financial Services and Markets Act 2000”.

*The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004)*

**Introduction**

**190.** Amend the Social Security (Contributions) Regulations 2001 in accordance with Articles 191 and 192.

**Calculation of earnings for the purposes of earnings-related contributions in particular cases**

**191.** In paragraph 3 of Schedule 2 (calculation of earnings for the purposes of earnings-related contributions in particular cases) for “75(8) of the Financial Services Act 1986” substitute “237 of the Financial Services and Markets Act 2000”.

### **Payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions**

**192.**—(1) Amend Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions) as follows.

(2) In paragraph 2 of Part II—

(a) in sub-paragraph (1)(a) for sub-paragraph (ii) substitute—

“(ii) any contract of long-term insurance which falls within paragraph I, III or VI of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(b) in sub-paragraph (3) for the words from “provisions” to the end substitute

“contract—

(a) falls within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and Part I of that Schedule; or

(b) is treated for the purposes of that Order as falling within Part II of that Schedule by Article 3(3) of that Order,

that contract shall be treated as a contract of long-term insurance.”.

(3) In paragraph 5 of Part IV—

(a) in sub-paragraph (a) for “75(1) of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”;

(b) for sub-paragraph (b) substitute—

“(b) “an open-ended investment company” has the meaning given in section 236 of the Financial Services and Markets Act 2000.”.

#### *The General Insurance Reserves (Tax) Regulations 2001 (S.I. 2001/1757)*

### **Provisions supplementing regulation 3**

**193.**—(1) In regulation 4(1) of the General Insurance Reserves (Tax) Regulations 2001 (provisions supplementing regulation 3)—

(a) for sub-paragraph (a) substitute—

“(a) a transfer effected under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3, or 4 of subsection (3) of that section, or”;

(b) in sub-paragraph (b) for “52B of that Act” substitute “116 of the Financial Services and Markets Act 2000”.

(2) The amendment made by paragraph (1)(a) above has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within case 2, 3 or 4 of subsection (3) of that section.

(3) The amendment made by paragraph (1)(b) above has effect in relation to any transfer in relation to which section 116 of the Financial Services and Markets Act 2000 applies.

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8th November 2001

*John Heppell*  
*Graham Stringer*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE

Article 109

REPEALS IN CONSEQUENCE OF THE  
AMENDMENTS MADE BY PART 2 OF THIS ORDER

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
The Finance Act 1986 (c. 41)	Section 83.
The Personal Pension Schemes (Establishment of Schemes) Order 1988 (S.I. 1988/993)	Article 3(a).
The Finance Act 1990 (c. 29)	In Schedule 6, in paragraph 1(2)(b), the definition of “long term business”.
The Friendly Societies Act 1992 (c. 40)	In Schedule 21, paragraph 10.
The Finance (No. 2) Act 1992 (c. 48)	In Schedule 9— <ul style="list-style-type: none"> <li>(a) (a) paragraph 3;</li> <li>(b) (b) paragraph 5(5)(c);</li> <li>(c) (c) paragraph 6(b).</li> </ul>
The Finance Act 1994 (c. 9)	Section 142(1).
The Finance Act 1995 (c. 4)	Section 52(1). Section 63(3). In Schedule 9, in paragraph 1(2)— <ul style="list-style-type: none"> <li>(a) (a) paragraphs (a), (b) and (c);</li> <li>(b) (b) in paragraph (d), “211(1), 213(5)”.</li> </ul>
The Building Societies Act 1997 (c. 32)	Section 45(2).
The Personal Pension Schemes (Establishment of Schemes) Order 1997 (S.I. 1997/2388)	Article 3(a). Article 4. Article 5.
The Transfer of Functions (Insurance) Order 1997 (S.I. 1997/2781)	In the Schedule, paragraph 114.
The Capital Gains Tax (Definition of Permanent Interest Bearing Share) Regulations 1999 (S.I. 1999/1953)	The whole.
1.	The repeals in paragraph 1(2) of Schedule 9 to the Finance Act 1995 have effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.
2.	The revocation of paragraph 114 of the Schedule to the Transfer of Functions (Insurance) Order 1997 has effect in relation to periods of account ending on or after 1st December 2001.
3.	The revocation of the Capital Gains Tax (Definition of Permanent Interest Bearing Share) Regulations 1999 has effect in relation to shares in a building society issued on or after 1st December 2001.

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<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
The Financial Services and Markets Act 2000 (c. 8)	Section 411(1).
1.	The repeals in paragraph 1(2) of Schedule 9 to the Finance Act 1995 have effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.
2.	The revocation of paragraph 114 of the Schedule to the Transfer of Functions (Insurance) Order 1997 has effect in relation to periods of account ending on or after 1st December 2001.
3.	The revocation of the Capital Gains Tax (Definition of Permanent Interest Bearing Share) Regulations 1999 has effect in relation to shares in a building society issued on or after 1st December 2001.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes amendments to primary and secondary legislation relating to matters under the care and management of the Commissioners of Inland Revenue. The matters involved include income tax, corporation tax, capital gains tax, national insurance contributions, inheritance tax, stamp duty and stamp duty reserve tax. The amendments are in consequence of provisions made by or under the Financial Services and Markets Act 2000 (c. 8) which come into force on 1st December 2001.

Part 1 deals with introductory matters. Article 1 provides for citation and commencement and Article 2 provides for interpretation.

Part 2 (Articles 3 to 109) sets out the amendments to primary legislation.

Article 3 amends the Taxes Management Act 1970 (c. 9).

Article 4 amends the Finance Act 1970 (c. 24).

Article 5 amends the Inheritance Tax Act 1984 (c. 51).

Articles 6 to 12 amend the Finance Act 1986 (c. 41).

Articles 13 to 52 amend the Income and Corporation Taxes Act 1988 (c. 1).

Article 53 amends the Finance Act 1988 (c. 39).

Articles 55 to 60 amend the Finance Act 1989 (c. 26).

Articles 61 to 73 amend the Taxation of Chargeable Gains Act 1992 (c. 12).

Article 74 amends the Finance (No. 2) Act 1992 (c. 48).

Articles 75 to 82 amend the Finance Act 1993 (c. 34).

Articles 83 to 87 amend the Finance Act 1994 (c. 9).

Articles 88 to 91 amend the Finance Act 1995 (c. 4).

Articles 92 to 96 amend the Finance Act 1996 (c. 8).

Articles 97 to 102 amend the Finance Act 1997 (c. 16).

Article 103 amends the Finance Act 1998 (c. 36).



Article 104 amends the Finance Act 1999 (c. 16).

Articles 105 to 107 amend the Finance Act 2000 (c. 17).

Article 108 amends the Capital Allowances Act 2001 (c. 2).

Article 109 introduces the Schedule to the Order which contains repeals and revocations in consequence of the amendments made by Part 2.

Part 3 (Articles 110 to 193) sets out the amendments to secondary legislation.

Article 110 amends the Income Tax (Life Assurance Premium Relief ) Regulations 1978 (S.I. 1998/1159).

Article 111 amends the Friendly Societies (Life Assurance Premium Relief) (Change of Rate) Regulations 1980 (S.I. 1980/1947).

Articles 112 to 115 amend the Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711).

Article 116 amends the Capital Gains Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/266).

Article 117 amends the Income Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/267).

Article 118 amends the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme) Regulations 1988 (S.I. 1988/268).

Article 119 amends the Occupational Pension Schemes (Transitional Provisions) Regulations 1988 (S.I. 1988/1436).

Articles 120 to 125 amend the Personal Equity Plan Regulations 1989 (S.I. 1989/469).

Article 126 amends the Retirement Benefits Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990 (S.I. 1990/586).

Article 127 amends the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990 (S.I. 1990/2101).

Article 128 amends the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (S.I. 1990/2231).

Articles 129 to 133 amend the Tax-exempt Special Savings Account Regulations 1990 (S.I. 1990/2361).

Article 134 amends the Debts of Overseas Governments (Determination of Relevant Percentage) Regulations 1990 (S.I. 1990/2529).

Article 135 amends the Inheritance Tax (Market Makers) Regulations 1992 (S.I. 1992/3181).

Article 136 amends the Income Tax (Prescribed Deposit-takers) Order 1992 (S.I. 1992/3234).

Article 137 amends the Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) Regulations 1994 (S.I. 1994/3227).

Article 138 amends the Exchange Gains and Losses (Insurance Companies) Regulations 1994 (S.I. 1994/3231).

Article 139 amends the Lloyd's Underwriters (Tax) Regulations 1995 (S.I. 1995/351).

Article 140 amends the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730).

Article 141 amends the Retirement Benefits Schemes (Information Powers) Regulations 1995 (S.I. 1995/3103).

Article 142 amends the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 (S.I. 1995/3237).

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Article 143 amends the Capital Gains Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. [1996/1583](#)).

Article 144 amends the Stamp Duty and Stamp Duty Reserve Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. [1996/1584](#)).

Article 145 amends the Income Tax (Pension Funds Pooling Schemes) Regulations 1996 (S.I. [1996/1585](#)).

Articles 146 to 151 amend the Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. [1996/2991](#)).

Articles 152 to 165 amend the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. [1997/473](#)).

Article 166 amends the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. [1997/1154](#)).

Article 167 amends the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. [1997/1156](#)).

Articles 168 to 178 amend the Individual Savings Account Regulations 1998 (S.I. [1998/1870](#)).

Article 179 amends the Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. [1998/1871](#)).

Article 180 amends the Controlled Foreign Companies (Excluded Countries) Regulations 1998 (S.I. [1998/3081](#)).

Article 181 amends the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. [1998/3175](#)).

Article 182 amends the Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999 (S.I. [1999/622](#)).

Articles 183 to 185 amend the Personal Portfolio Bonds (Tax) Regulations 1999 (S.I. [1999/1029](#)).

Article 186 amends the Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999 (S.I. [1999/2383](#)).

Article 187 amends the Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000 (S.I. [2000/2089](#)).

Article 188 amends the Personal Pension Schemes (Information Powers) Regulations 2000 (S.I. [2000/2316](#)).

Article 189 amends the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. [2001/117](#)).

Articles 190 to 192 amend the Social Security (Contributions) Regulations 2001 (S.I. [2001/1004](#)).

Article 193 amends the General Insurance Reserves (Tax) Regulations 2001 (S.I. [2001/1757](#)).

The Schedule to the Order contains repeals and revocations in consequence of the amendments made by Part 2 (see Article 109).