Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Taxation of Regulatory Capital Securities (Amendment) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 2056

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX
STAMP DUTY
STAMP DUTY RESERVE TAX

The Taxation of Regulatory Capital Securities (Amendment) Regulations 2015

Made - - - - 16th December 2015

Coming into force - - 1st January 2016

The Treasury make the following Regulations in exercise of the powers conferred by section 221 of the Finance Act 2012 [F1].

A draft of this instrument was laid before and approved by a resolution of the House of Commons in accordance with section 221(6) of the Finance Act 2012.

F1 2012 c. 14.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Taxation of Regulatory Capital Securities (Amendment) Regulations 2015 and come into force on 1st January 2016.

(2) These Regulations have effect—

(a) for the purposes of income tax, for payments made on or after 1st January 2016;

(b) for the purposes of corporation tax, for accounting periods beginning on or after that date (this is subject to paragraph (3) and regulation 3);

(c) for the purposes of capital gains tax, in relation to disposals made on or after that date;

(d) for the purposes of stamp duty, in relation to instruments executed on or after that date;

(e) for the purposes of stamp duty reserve tax—

(i) in the case of agreements to transfer securities which are not conditional, in relation to agreements made on or after that date, and

(ii) in the case of agreements to transfer securities which are conditional, in relation to agreements where the condition is satisfied on or after that date.

(3) In relation to instruments issued by a company in an accounting period beginning before 1st January 2016—

(a) amendments made by regulation 2(3)(a)(i), (c) and (d) (fair value accounting) do not apply, and

(b) references to fair value accounting in the Taxation of Regulatory Capital Securities Regulations 2013 [F2] ("the principal Regulations") are to be read without regard to the amendment of section 313(5) of CTA 2009 made by paragraph 7(7) of Schedule 7 to F(No 2)A 2015 [F3].

F2 S.I. 2013/3209.
F3 2015 c. 33.

Amendment of the Taxation of Regulatory Capital Securities Regulations 2013

2.—(1) The principal Regulations are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(i) after sub-paragraph (a) omit "or",

(ii) after sub-paragraph (b) insert—

"(c) an item listed in point (a)(iii) or (b) of Article 69 of CDR which is a Tier 1 item under—

(i) Article 69 or 79 of CDR, or

(ii) rule 4.1 in the Annex to the PRA Rulebook: Solvency II Firms: Transitional Measures Instrument 2015 [F4] ("the Transitional Instrument"), or

(d) an item listed in point (a)(iii) or (b) of Article 72 of CDR which is a Tier 2 item under—

(i) Article 72 or 79 of CDR, or

(ii) rule 4.2 in the Annex to the Transitional Instrument.",

(b) in paragraph (4), for "In these Regulations, "CRR"" substitute—

"In these Regulations—

"CDR" means the Commission Delegated Regulation (EU) 2015/35 [F5] (as amended from time to time),

"CRR"".

(3) In regulation 3—

(a) in paragraph (2)—

(i) in sub-paragraph (b), for the words from "fair" to the end substitute " measuring the whole or part of the security at fair value were not generally accepted accounting practice (but see paragraph (3A)), and ",

(ii) in sub-paragraph (c)(i), after "instrument" insert " or an item listed in point (a)(i) or (ii) of Article 69 of CDR ",

(b) in paragraph (3)—

(i) for "carrying value" substitute " tax-adjusted carrying value ",

(ii) for "section 317" substitute " section 465B [F6] ",

(c) after paragraph (3) insert—

"(3A) Paragraph (2)(b) does not prevent the carrying value of the security being adjusted as necessary where the security is the hedged item under a designated fair value hedge.",

(d) in paragraph (4), omit the definition of "fair value accounting".

(4) After regulation 3, insert—

"**Amounts recognised in equity**

3A.—(1) This regulation applies if in accordance with generally accepted accounting practice, an amount in respect of a regulatory capital security relating to any of the matters in section 306A(1) of CTA 2009 [F7]—

(a) is recognised in equity or shareholders' funds for a period, and

(b) is not recognised in the company's accounts for the period as an item of profit or loss or as an item of other comprehensive income.

(2) The amount is to be brought into account for the period for the purposes of Part 5 of CTA 2009 [F8] in the same way as an amount which is brought into account as a credit or debit in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.

(3) But this regulation does not bring into account for the purposes of Part 5 of CTA 2009 any exchange gain or loss of the company so far as it is recognised in the company's statement of total recognised gains and losses, statement of recognised income and expense, statement of changes in equity or statement of income and retained earnings.

(4) In this regulation "item of profit or loss", "item of other comprehensive income", "statement of total recognised gains and losses", "statement of recognised income and expense", "statement of changes in equity" and "statement of income and retained earnings" each has the meaning that it has for accounting purposes."

F4 This instrument was made on 17th March 2015 by order of the Board of the Prudential Regulation Authority and can be found at http://www.prarulebook.co.uk/rulebook/Media/Get/4f24735c-d66e-4be7-aa93-6bb0d4c8d2c7/PRA_2015_26/pdf.

F5 OJ L12,17.1.2015, p.1.

F6 Section 465B was inserted by paragraph 52 of Schedule 7 to the Finance (No.2) Act 2015.

F7 Section 306A was inserted by paragraph 3 of Schedule 7 to the Finance (No.2) Act 2015.

F8 Part 5 of the Corporation Tax Act 2009 was relevantly amended by Schedule 7 to the Finance (No.2) Act 2015.

Transitional provisions

3.—(1) This regulation applies for the purposes of corporation tax in relation to the first accounting period beginning on or after 1st January 2016 in respect of a security specified in paragraph (2)—

(a) issued before that period, and

(b) to which Part 5 of CTA 2009 applied in the accounting period immediately preceding that period.