STATUTORY INSTRUMENTS

# 2015 No. 1961

# CORPORATION TAX

## The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015

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| *Made - - - -* | *3rd December 2015* |
| *Laid before the House of Commons - - - -* | *7th December 2015* |
| *Coming into force - -* | *31st December 2015* |

The Treasury make the following Regulations in exercise of the powers conferred by sections 310(1)(a) and (3), 328(4), 598(1)(a), (4) and (5) and 606(4) of the Corporation Tax Act 2009(**1**).

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) (Amendment) Regulations 2015 and come into force on 31st December 2015.

(2) These Regulations have effect in relation to accounting periods beginning on or after 1st January 2016.

**Amendments to the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004**

**2.** The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004(**2**) are amended as follows.

**3.** In regulation 2 (interpretation), in paragraph (1)—

(a) omit the definition of "fair value accounting",

(b) for the definition of "fair value profit or loss" substitute—

> ""fair value profit or loss" means the profit or loss brought into account in relation to a derivative contract or an asset or liability representing a loan relationship where for the period in question—

(**1**) 2009 c. 4. Section 310(1)(a) was amended and sections 328(4) and 606(4) were substituted by paragraphs 6, 20(5) and 68(5), respectively, of Schedule 7 to the Finance (No 2) Act 2015 (c. 33).

(**2**) S.I. 2004/3256; relevant amending instruments are S.I. 2005/2012, 2005/3374 and 2014/3188.

(a) the derivative contract or asset or liability representing a loan relationship is measured at fair value, or

(b) the derivative contract or asset or liability representing a loan relationship is a hedged item in a designated fair value hedge and the carrying value of the hedged item is adjusted for changes in fair value attributable to the hedged risk;", and

(c) in paragraph (2), in the list of terms that have the same meaning as for accounting purposes, after "foreign operation" insert ", fair value, items of other comprehensive income".

**4.** After regulation 5 insert—

"**Net investment hedge of foreign operations**

**5A.**—(1) For the purposes of sections 328(4) and 606(4) of CTA 2009 there is prescribed an exchange gain or loss arising to a company in an accounting period in relation to a liability representing a loan relationship or derivative contract of the company where—

(a) the loan relationship or derivative contract is a designated hedge of a net investment in a foreign operation of the company, and

(b) amounts representing exchange gains or losses in respect of the loan relationship or derivative contract have, in accordance with generally accepted accounting practice, been recognised in the company's accounts as items of other comprehensive income.

(2) In determining what amounts fall within paragraph (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.

(3) But if the company's accounts for the period are, in accordance with generally accepted accounting practice, drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in paragraph (2), that different assumption applies in determining what amounts fall within paragraph (1)(b) at the time in question."

**5.** In regulation 6A (election to apply regulations 7, 8 or 9)(**3**)—

(a) in paragraph (3)(b) for "in relation to which the company uses fair value accounting" substitute "which the company measures at fair value",

(b) in paragraph (4)(b) for "in any other case" substitute "either", and

(c) in paragraph (5)—

(i) in sub-paragraph (a) for the words from "adopts" to the end substitute "measures a relevant derivative contract at fair value for the first time on or after 1st January 2015", and

(ii) in sub-paragraph (b) for "uses fair value accounting in relation to a relevant derivative contract" substitute "measures a relevant derivative contract at fair value".

**6.** For regulation 6B (effect of elections on transfers within groups)(**4**) substitute—

"**Effect of elections on group member replacing another as party to derivative contract: regulations 7 and 8**

**6B.**—(1) This regulation applies if—

(**3**) Regulation 6A was inserted by SI 2014/3188.
(**4**) Regulation 6B was inserted by SI 2014/3188.