

Govt 84 + Govt 85

Mr Stephen Timms (Labour-East Ham)

**Amendment 84**

Clause 52, page 33, line 32, leave out sub-paragraph (ii) and insert –

‘(ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments),’.

**Amendment 85**

Clause 52, page 35, line 50, at end insert –

‘(7) For the purposes of section 417 of ICTA (close companies) –

- (a) a bond-holder is a loan creditor in respect of the bond-issuer;
- (b) arrangements falling within section 48A shall be disregarded in the application of section 417(1)(d).

(8) For the purposes of Schedule 18 to ICTA (group relief) –

- (a) a bond-holder is a loan creditor in respect of the bond-issuer;
- (b) paragraph 1(5)(b) shall be disregarded in determining whether a person is an equity holder by virtue of arrangements falling within section 48A. ”’.

EXPLANATORY NOTE

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### **SUMMARY**

1. These amendments make three small changes to Clause 52, which extends the legislation on alternative finance arrangements enacted in Finance Act 2005 to “alternative finance investment bonds”.

### **DETAILS**

2. Clause 52 inserts new sections 48A and 48B into FA 2005. These sections provide that Shari’a compliant investment bonds (known as “sukuk”), that are economically equivalent to debt securities, are to be taxed in the same way as conventional securities.
3. Amendment 84 omits sub-paragraph (ii) of new subsection 48A(1)(d) and inserts a new sub-paragraph. This allows a redemption payment to be made during the bond term and in instalments, instead of, as originally drafted, only at the end of the bond term. The amendment allows for alternative finance investment bonds that are akin to amortising loans.
4. Amendment 85 inserts new subsection 48B(7) and new subsection 48B(8) into new section 48B. The new subsections provide that a bond-holder is to be treated as a loan creditor in respect of the bond issuer, for the purposes of the corporation tax rules on close companies and group relief, but that holding an alternative finance investment bond will not cause the bond-holder to be a participator or an equity holder in the bond-issuer under those rules.

### **BACKGROUND NOTE**

5. The amendments originate in representations made on Clause 52. They are consistent with the objective of taxing sukuk in the same way as conventional securities, while ensuring that a sukuk-holder is not treated as a participator in a close company, or an issuer is denied group relief, simply by reason of the nature of a sukuk, which is that the return to the bond-

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holder depends on the results of business carried on by, or on the performance of the assets held by, the bond issuer.