STATUTORY INSTRUMENTS

2011 No. 2999

The Investment Trust (Approved Company) (Tax) Regulations 2011

PART 2

Investment Trusts

CHAPTER 3

Investment trust: requirements to be met whilst approved

Investment trust to comply with requirements of this Chapter

17. A company must comply with the provisions of this Chapter in relation to each accounting period in respect of which it is approved as an investment trust.

Investment trust must not be a close company

18.—(1) An investment trust must not be a close company at any time in an accounting period.

(2) See section 439 of CTA 2010 for the definition of "close company".

The income distribution requirement

19.—(1) An investment trust must not retain in respect of an accounting period an amount which is greater than 15% of its income for the accounting period.

(2) The investment trust must distribute as a dividend the amount required to comply with paragraph (1) before the filing date for the investment trust's company tax return for the accounting period.

(3) Where the investment trust company's tax return has been amended as a result of a notice served under paragraph 15 or 34 of Schedule 18 to the Finance Act 1998(**1**), any further distribution that is required by virtue of the amendment must be made before the end of the period of 180 days beginning with the date of the amendment.

(4) In this regulation and regulation 23, "filing date" has the meaning given in paragraph 14 of Schedule 18 to the Finance Act 1998.

(5) This regulation is subject to regulations 21 and 22.

Calculation of income

20.—(1) Paragraphs (2) and (3) apply for the purposes of regulation 19(1) in determining the income of the investment trust for an accounting period.

(**1**) 1998 c. 36. Paragraph 15 was amended by paragraph 68(a) of Schedule 4 to the Commissioners of Revenue and Customs Act 2005 (c. 11). Paragraph 34 was amended by section 119(3) and (6) to (8) of the Finance Act 2008 (c. 9).

(2) The amounts to be brought into account under Part 5 of CTA 2009 in respect of the investment trust's loan relationships are to be determined without reference to any debtor relationships of the investment trust.

(3) Income treated as arising under regulation 18(1) (the charge to tax: further provisions) of the Offshore Funds Regulations is to be ignored.

The income distribution requirement: reduction in amount of income permitted to be retained

21.—(1) This regulation applies where conditions A to C are met.

(2) Condition A is that the investment trust is a participant in an offshore reporting fund within the meaning of regulation 50 (meaning of "reporting fund") of the Offshore Funds Regulations.

(3) Condition B is that there is an amount which falls to be reported to the investment trust in accordance with regulation 92(1)(b) (contents of a report to participants: non-transparent funds) of the Offshore Funds Regulations(**2**).

(4) Condition C is that the amount referred to in condition B is accounted for by the investment trust through the capital column of the income statement in accordance with the AIC Statement of Recommended Practice, or would have been so accounted for if that Statement had been applied correctly.

(5) Where this regulation applies the amount which the investment trust may retain in accordance with regulation 19(1) is reduced by an amount equal to 85% of the amount referred to in condition B.

(6) If the application of paragraph (5) has the effect that the sum which an investment trust is permitted to retain ("the retainable amount") is calculated to be less than zero, the investment trust must distribute as a dividend a further sum which is equal to the difference between the retainable amount and zero.

(7) The further distribution mentioned in paragraph (6) must be made in relation to the accounting period in which the fund distribution date for the offshore reporting fund in question falls.

(8) In this regulation—

(a) "fund distribution date" has the meaning given in regulation 94 (reported income: general provisions) of the Offshore Funds Regulations(**3**), and

(b) "AIC Statement of Recommended Practice" means the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2009(**4**).

(9) The distribution required under this regulation together with the distribution required under regulation 19 comprise "the income distribution requirement".

(10) This regulation is subject to regulation 22.

The income distribution requirement: exceptions

22.—(1) Regulations 19 and 21 do not apply in relation to an accounting period if the amount that the investment trust would be required to distribute in accordance with those regulations, taken together, would be less than £30,000.

(2) Regulations 19 and 21 do not apply in relation to an accounting period if—

(a) by virtue of a restriction imposed by law, the investment trust is required to retain in respect of the accounting period an amount of income that exceeds 15% of its income, and

(**2**) Regulation 92(1) was amended by S.I. 2011/1211.
(**3**) Regulation 94 was amended by S.I. 2009/3139 and 2011/1211.
(**4**) The AIC Statement of Practice can be found at: http://www.theaic.co.uk/Documents/Technical/AICSORPJan09.pdf.

(b) either—

(i) the amount of income that the investment trust retains in respect of the accounting period does not exceed the amount of income that it is required to retain in respect of the period by virtue of a restriction imposed by law, or

(ii) if there is such an excess, the amount of the excess plus the amount of any income that the investment trust distributes in respect of the period is less than £30,000.

(3) If the accounting period mentioned in paragraphs (1) and (2) is shorter than 12 months, the amount of £30,000 mentioned in paragraphs (1) and (2)(b)(ii) is proportionately reduced.

Requirement to notify Commissioners of revised investment policy

23.—(1) An investment trust must notify the Commissioners if it revises its published investment policy.

(2) The investment trust must provide the Commissioners with a copy of any revised investment policy before the filing date for its company tax return for the accounting period in which the investment policy was revised.

Requirement to notify Commissioners of breach

24.—(1) An investment trust must give notice in accordance with paragraph (2) if it has breached—

(a) any of the eligibility conditions (see regulation 4), or

(b) any other requirement of these Regulations (apart from this regulation).

(2) The notice must—

(a) be given in writing to the Commissioners as soon as reasonably practicable after the investment trust becomes aware of any breach referred to in paragraph (1), and

(b) specify the steps, if any, that have been taken, or are to be taken, to correct the breach.