

SCHEDULES

SCHEDULE 27

DISTRIBUTING FUNDS

PART II

MODIFICATIONS OF CONDITIONS FOR CERTIFICATION IN CERTAIN CASES

Offshore funds with interests in dealing and management companies

- 12 (1) Section 760(3)(c) shall not apply to so much of the assets of an offshore fund as consists of issued share capital of a company which is either—
- (a) a wholly-owned subsidiary of the fund which falls within sub-paragraph (2) below; or
 - (b) a subsidiary management company of the fund, as defined in sub-paragraph (3) below.
- (2) A company which is a wholly-owned subsidiary of an offshore fund is one to which sub-paragraph (1)(a) above applies if—
- (a) the business of the company consists wholly of dealing in material interests in the offshore fund for the purposes of and in connection with the management and administration of the business of the fund; and
 - (b) the company is not entitled to any distribution in respect of any material interest for the time being held by it;
- and paragraph 11(2) above shall apply to determine whether a company is, for the purposes of this paragraph, a wholly-owned subsidiary of an offshore fund.
- (3) A company in which an offshore fund has an interest is for the purposes of sub-paragraph (1)(b) above a subsidiary management company of the fund if—
- (a) the company carries on no business other than providing services falling within sub-paragraph (4) below either for the fund alone or for the fund and for any other offshore fund which has an interest in the company; and
 - (b) the company's remuneration for the services which it provides to the fund is not greater than it would be if it were determined at arm's length between the fund and a company in which the fund has no interest.
- (4) The services referred to in sub-paragraph (3) above are—
- (a) holding property (of any description) which is occupied or used in connection with the management or administration of the fund; and
 - (b) providing administrative, management and advisory services to the fund.
- (5) In determining, in accordance with sub-paragraph (3) above, whether a company in which an offshore fund has an interest is a subsidiary management company of that fund—

Status: This is the original version (as it was originally enacted).

- (a) every business carried on by a wholly-owned subsidiary of the company shall be treated as carried on by the company; and
 - (b) no account shall be taken of so much of the company's business as consists of holding its interests in a wholly-owned subsidiary; and
 - (c) any reference in sub-paragraph (3)(b) above to the company shall be taken to include a reference to a wholly-owned subsidiary of the company.
- (6) Any reference in sub-paragraph (5) above to a wholly-owned subsidiary of a company is a reference to another company the whole of the issued share capital of which is for the time being directly and beneficially owned by the first company.