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STATUTORY INSTRUMENTS

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**1997 No. 213**

**The Unit Trust Schemes and Offshore Funds  
(Non-qualifying Investments Test) Order 1997**

**Amendments to paragraph 8 of Schedule 10 to the Finance Act 1996**

**10.** After sub-paragraph (7) there shall be inserted the following sub-paragraphs—

“(7A) In this paragraph—

- (a) “collective investment scheme” has the meaning given by section 75 of the Financial Services Act 1986<sup>(1)</sup>;
- (b) “open-ended investment company” means, subject to sub-paragraph (7B) below, an open-ended investment company within the meaning given by section 75(8) of the Financial Services Act 1986 which is incorporated in the United Kingdom;
- (c) “scheme property” of an open-ended investment company means, subject to sub-paragraph (7C)(b) below, the property subject to the collective investment scheme constituted by the company;
- (d) references to a person owning shares in an open-ended investment company are references to—
  - (i) the beneficial owner of the shares,
  - (ii) where the shares are held on trust (other than a bare trust), the trustees of the trust, or
  - (iii) where the shares are comprised in the estate of a deceased person, the deceased’s personal representatives.

(7B) Each of the parts of an umbrella company shall be regarded for the purposes of this paragraph as an open-ended investment company and the umbrella company as a whole shall not be so regarded and shall not be regarded as a company.

(7C) In relation to a part of an umbrella company—

- (a) references in this paragraph to investments of an open-ended investment company shall have effect as references to such of the investments as under the arrangements referred to in sub-paragraph (7D) below form part of the separate pool to which that part of the umbrella company relates;
- (b) references in this paragraph to the scheme property of an open-ended investment company shall have effect as if they were references to such property subject to the collective investment scheme constituted by the umbrella company as is comprised in the separate pool to which that part of the umbrella company relates;
- (c) a person for the time being having rights in that part shall be regarded as the owner of shares in the open-ended investment company which that part is deemed to be by virtue of sub-paragraph (7B) above, and not as the owner of shares in the umbrella company itself.

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<sup>(1)</sup> 1986 c. 60. Section 75 was amended by S.I. 1988/803 and S.I. 1990/349.

- (7D) In sub-paragraphs (7B) and (7C) above “umbrella company” means a company—
- (a) which falls within the definition of “open-ended investment company” in section 75(8) of the Financial Services Act 1986,
  - (b) which is incorporated in the United Kingdom,
  - (c) whose instrument of incorporation provides for arrangements for such pooling as is mentioned in section 75(3)(a) of that Act in relation to separate parts of the scheme property of the company, and
  - (d) the owners of shares in which are entitled to exchange rights in one part for rights in another;

and any reference to a part of an umbrella company is a reference to such of the arrangements as relate to a separate pool.”