STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 1

PRELIMINARY PROVISIONS AND INTERPRETATION

Preliminary provisions

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Authorised Investment Funds (Tax) Regulations 2006, and shall come into force on 1st April 2006.

(2) These Regulations have effect—

(a) for the purposes of income tax—

(i) for the tax year 2006-07 and subsequent tax years, and

(ii) for distributions made on or after 6th April 2006;

(b) for the purposes of corporation tax—

(i) on income, for accounting periods beginning on or after 1st April 2006,

(ii) on chargeable gains, in relation to disposals made on or after 1st April 2006, and

(iii) for distributions made on or after 1st April 2006; and

(c) for the purposes of capital gains tax, in relation to disposals made on or after 6th April 2006.

[F1](3) . . . . . .

Textual Amendments

F1 Reg. 1(3) revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(a)**

Structure of these Regulations

2. The structure of these Regulations is as follows—

this Part contains preliminary provisions and provides for interpretation;

[[F2]Part 1A deals with the genuine diversity of ownership condition;**]**

Part 2 deals with the tax treatment of authorised investment funds;

[[F3]Part 2A deals with qualified investor schemes**]**

[[F4]Part 2B deals with diversely owned AIFs;**]**

Part 3 deals with distributions made by authorised investment funds;

Part 4 deals with the treatment of participants in authorised investment funds;

[[F5]Part 4A deals with Property AIFs;**]**

[[F6]Part 4B deals with Tax Elected Funds;**]**

Part 5 deals with compliance;

Part 6 contains further provisions relating to authorised investment funds;

[[F7]Part 6A contains provisions relating to Funds Investing in Non-Reporting Offshore Funds (FINROFs);**]**

Part 7 contains consequential amendments and modifications of enactments; and

Part 8 contains final provisions.

Textual Amendments

F2 Words in reg. 2 inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **3(a)**

F3 Words in reg. 2 inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **4**

F4 Words in reg. 2 inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **3(b)**

F5 Words in reg. 2 inserted (6.4.2008) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2008 (S.I. 2008/705), regs. 1, **3**

F6 Words in reg. 2 inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **3(c)**

F7 Words in reg. 2 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **3**

Interpretation

Definition of "authorised investment funds"

3. In these Regulations "authorised investment funds" means—

(a) open-ended investment companies, and

(b) authorised unit trust schemes.

Definition of "open-ended investment company"

4. In these Regulations "open-ended investment company" means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 [M1] applies.

Marginal Citations

M1 2000 c. 8.

Interpretation of expressions relating to authorised unit trust schemes

5.—(1) In these Regulations "unit trust scheme" has the meaning given by section 237 of FISMA 2000.

(2) For the purposes of these Regulations a unit trust scheme is authorised in relation to an accounting period if an order under section 243 of FISMA 2000 is in force in relation to that scheme during the whole or part of that accounting period.

(3) In these Regulations "unit holder" means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

Further definitions generally relevant for authorised investment funds

6.—(1) In these Regulations the "legal owner" means—

(a) in relation to an open-ended investment company, the open-ended investment company, and

(b) in relation to an authorised unit trust, the trustees of the trust.

(2) In these Regulations the "scheme property" means—

(a) in relation to an open-ended investment company, the property subject to the collective investment scheme constituted by the company, and

(b) in relation to an authorised unit trust, the property subject to the collective investment scheme constituted by the trust.

(3) In these Regulations the "manager" means—

(a) in relation to an open-ended investment company, the authorised corporate director, and

(b) in relation to an authorised unit trust, the person who is the manager of the trust for the purposes of Chapter 3 of Part 17 of FISMA 2000 (authorised unit trust schemes).

(4) In these Regulations, unless a contrary intention appears, "units" means the rights or interests (however described) of the participants in the authorised investment fund.

(5) In these Regulations "accumulation unit" means—

(a) in relation to an open-ended investment company, a share in the company in respect of which income is credited periodically to the capital part of the scheme property of the company, and

(b) in relation to an authorised unit trust, a unit in the trust in respect of which income is credited periodically to the capital part of the scheme property of the trust.

(6) In these Regulations a "participant", in relation to an authorised investment fund, means a beneficial owner of units in the fund, except where the units are held on trust (other than a bare trust) or are comprised in the estate of a deceased person, and in such a case the participant, in relation to the fund, means the trustees of the trust, or, as the case may be, the deceased's personal representatives.

[[F8](7) In these Regulations "instrument constituting the fund" means—

(a) in relation to an open-ended investment company, the instrument of incorporation, and

(b) in relation to an authorised unit trust scheme, the trust deed.

(8) In these Regulations "genuine diversity of ownership condition" has the meaning given by regulation 9A.**]**

Textual Amendments

F8 Reg. 6(7)(8) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **4**

Umbrella companies and umbrella schemes: interpretation

7.—(1) In these Regulations "umbrella company" has the meaning given by section 468A(4) of ICTA [M2], and a reference to a part of an umbrella company is to be construed in accordance with that provision.

(2) For the purposes of these Regulations each of the parts of an umbrella company is regarded as an open-ended investment company and the umbrella company as a whole shall not be so regarded.

(3) In relation to a part of an umbrella company, any reference—

(a) to investments or to scheme property of an open-ended investment company has effect as a reference to such of the investments or to such of the scheme property as under the arrangements form part of the separate pool to which that part of the umbrella company relates, and

(b) a person for the time being having rights in that part is regarded as the owner of shares in the open-ended investment company which that part is regarded as being by virtue of paragraph (2), and not as the owner of shares in the umbrella company itself.

(4) In relation to a part of an umbrella company, any references in these Regulations to the instrument of incorporation or the prospectus in issue for the time being [F9]... of an open-ended investment company have effect, for the purposes of these Regulations, as references to such parts of the instrument of incorporation or of that prospectus [F9]... as apply to that part of the umbrella company.

(5) In these Regulations "umbrella scheme" has the meaning given by section 468(8) of ICTA, and a reference to a part of an umbrella scheme is to be construed in accordance with that provision.

(6) For the purposes of these Regulations each of the parts of an umbrella scheme is regarded as an authorised unit trust and the umbrella scheme as a whole is not regarded as an authorised unit trust or as any other form of collective investment scheme.

(7) In relation to a part of an umbrella scheme, any reference—

(a) to investments or to scheme property subject to the trusts of an authorised unit trust has effect as a reference to such of the investments or to such of the scheme property as under the arrangements form part of the separate pool to which that part of the umbrella scheme relates, and

(b) to a unit holder, has effect as a reference to a person for the time being having rights in that separate pool.

(8) In relation to a part of an umbrella scheme, any references in these Regulations to the prospectus in issue for the time being [F10]... of an authorised unit trust have effect, for the purposes of these Regulations, as references to such parts of that prospectus [F10]... as apply to that part of the umbrella scheme.

Textual Amendments

F9 Words in reg. 7(4) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(1)**

F10 Words in reg. 7(8) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(1)**

Marginal Citations

M2 Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

General interpretation

8. In these Regulations—

[[F11]"appropriate regulator" in relation to a person means—

(a) in a case where the person is a PRA-authorised person (within the meaning of the Financial Services and Markets Act 2000), the Prudential Regulation Authority or the Financial Conduct Authority;

(b) in any other case, the Financial Conduct Authority;**]**

"authorised corporate director", in relation to an open-ended investment company, means a corporate director of the company acting in the capacity as the director having responsibility for the management of its scheme property, being an authorised person within the meaning given by section 31(2) of FISMA 2000, or if there is no such director, the person for the time being having responsibility for the management of the scheme property of the company and acting in that capacity;

"collective investment scheme" has the meaning given by section 235 of FISMA 2000;

the "Commissioners" means the Commissioners for Revenue and Customs;

[[F12]"connected person" has the meaning given in—

(a) sections 993 and 994 of ITA 2007 (connected persons) in the case of a person chargeable to income tax, and

(b) section 839 of ICTA (connected persons) in the case of a person chargeable to corporation tax;**]**

"creditor relationship" has the meaning given by section 103(1) of FA 1996 [M3];

"derivative contract" means—

(a) a contract which is a derivative contract within the meaning of Schedule 26 to FA 2002 [M4], or

(b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule [M5] (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);

"investments" do not include cash awaiting investment;

"net asset value" means the value of the assets of the authorised investment fund, after the deduction of specified liabilities;

[[F13]"non-reporting fund" has the same meaning as in regulation 4(2) of the Offshore Funds Regulations;**]**

[[F13]"offshore fund" means a fund within the meaning of section 355 of the Taxation (International and Other Provisions) Act 2010;**]**

[[F13]"Offshore Funds Regulations" means the Offshore Funds (Tax) Regulations 2009;**]**

"owner of shares", in relation to an open-ended investment company, means a beneficial owner of shares in the company, except where the shares are held on trust (other than a bare trust) or are comprised in the estate of a deceased person, and in such a case the owner of shares, in relation to the company, means the trustees of the trust, or, as the case may be, the deceased's personal representatives;

[[F14]"prospectus" includes a proposed prospectus, supplements to a prospectus and supplements to a proposed prospectus;**]**

[[F15]"reportable income" has the same meaning as in Chapter 5 of Part 3 of the Offshore Funds Regulations;**]**

"reporting date" means the final day of each annual and each half-yearly accounting period of the authorised investment fund;

[[F16]"reporting fund" means an offshore fund to which Part 3 of the Offshore Funds Regulations applies**]**

"residence declaration" is to be construed in accordance with regulation 31;

[[F14]"Statement of Recommended Practice" means, in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to authorised investment funds issued by the Investment Management Association in November 2008;**]**

"tax year"—

(a) in relation to income tax, means a year of assessment within the meaning of ICTA (see section 832(1) of that Act), and

(b) in relation to capital gains tax, means a year of assessment within the meaning of TCGA 1992 (see section 288(1) of that Act).

[[F17]"tribunal" means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.**]**

Textual Amendments

F11 Words in reg. 8 inserted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(a)**

F12 Words in reg. 8 inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **5**

F13 Words in reg. 8 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **3(2)** (with reg. 8)

F14 Words in reg. 8 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **4**

F15 Words in reg. 8 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **3(3)** (with reg. 8)

F16 Words in reg. 8 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **3(4)** (with reg. 8)

F17 Words in reg. 8 inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 155**

Marginal Citations

M3 1996 c. 8.

M4 2002 c. 23.

M5 Paragraph 36 of Schedule 26 was amended by paragraph 62 of Schedule 10 to the Finance Act 2004 (c. 12).

Abbreviations and general index

9.—(1) The Schedule to these Regulations (which contains abbreviations and defined expressions that apply for the purposes of these Regulations) has effect.

(2) Part 1 of the Schedule gives the meaning of the abbreviated references to Acts used in these Regulations.

(3) Part 2 of the Schedule lists the places where expressions used in these Regulations are defined or otherwise explained—

(a) in these Regulations for the purposes of these Regulations, or

(b) in these Regulations for the purposes of a Part or Chapter of these Regulations.

[F18PART 1A

THE GENUINE DIVERSITY OF OWNERSHIP CONDITION

Textual Amendments

F18 Pt. 1A inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **6**

The genuine diversity of ownership condition

9A.—(1) For the purposes of these Regulations, the genuine diversity of ownership condition is as follows.

(2) The genuine diversity of ownership condition is that an authorised investment fund must—

(a) meet conditions A to C throughout the accounting period; or

(b) comply with paragraph (8).

(3) Condition A is that the fund documents—

(a) contain a statement that units in the fund will be widely available,

(b) specify the intended categories of investor, and

(c) specify that the manager of the fund must market and make available the units in the fund in accordance with paragraph 9A(6)(a).

(4) Condition B is that neither—

(a) the specification of the intended categories of investor, nor

(b) any other terms or conditions governing participation in the fund, whether or not specified in the fund documents,

have a limiting or deterring effect.

(5) In paragraph (4) a limiting or deterring effect means an effect which—

(a) limits investors to a limited number of specific persons or specific groups of connected persons, or

(b) deters a reasonable investor within the intended categories of investor from investing in the fund.

(6) Condition C is that—

(a) units in the fund must be marketed and made available—

(i) sufficiently widely to reach the intended categories of investors, and

(ii) in a manner appropriate to attract those categories of investors; and

(b) a person who is in an intended category of investor can, upon request to the manager of the fund, obtain information about that fund and acquire units in it.

Condition C is subject to paragraph (7).

(7) Condition C shall be treated as being met even if at the relevant time the fund has no capacity to receive additional investments, unless—

(a) the capacity of the fund to receive investments in it is fixed by the fund documents (or otherwise), and

(b) a pre-determined number of specific persons or specific groups of connected persons make investments in the fund which collectively exhausts all, or substantially all, of that capacity.

(8) An authorised investment fund [F19]... also meets the genuine diversity of ownership condition if—

(a) an investor in the fund is a unit trust scheme **[**[F20], an offshore fund or another authorised investment fund**]** (a "feeder fund");

(b) conditions A to C are met in relation to the authorised investment fund after taking into account—

(i) the fund documents relating to the feeder fund, and

(ii) the intended investors in the feeder fund; and

(c) the authorised investment fund and the feeder fund have the same manager (or proposed manager).

[
[F21](8A) For the purposes of these Regulations, a long-term asset fund is treated as meeting the genuine diversity of ownership condition if—

(a) the fund's prospectus was published on or before 9th December 2021, or

(b) at least 70% of the shares or units in the fund are held by one or more relevant investors or by the manager of the fund in the capacity as manager.

(8B) In paragraph (8A), "relevant investor" means any of the persons specified in categories A to E.

(8C) Category A is the trustee or manager of—

(a) an authorised unit trust scheme which meets the genuine diversity of ownership condition, or

(b) a unit trust scheme which—

(i) is authorised under the law of a territory outside the United Kingdom in a way which makes it, under that law, the equivalent of an authorised unit trust scheme, and

(ii) meets conditions A to C or complies with paragraph (8).

(8D) Category B is a company—

(a) which is an open-ended investment company which meets the genuine diversity of ownership condition, or

(b) which—

(i) is incorporated under the law of a territory outside the United Kingdom and is, under that law, the equivalent of an open-ended investment company, and

(ii) meets conditions A to C or complies with paragraph (8).

(8E) Category C is a person acting in the course of a long-term insurance business (that is, the activity of effecting or carrying out contracts of long-term insurance within the meaning of the Financial Services and Markets (Regulated Activities) Order 2001) where—

(a) that person—

(i) is authorised under FISMA 2000 to carry on such business, or

(ii) has an equivalent authorisation under the law of a territory outside the United Kingdom to carry on such business, and

(b) if that person is a company, it is not a close company.

(8F) Category D is a person who cannot be liable for corporation tax or income tax (as relevant) on the grounds of sovereign immunity.

(8G) Category E is the trustee, manager or administrator of a pension scheme (within the meaning given by section 150(1) of the Finance Act 2004) other than an investment regulated pension scheme (within the meaning given by paragraphs 1 and 2 of Schedule 29A to that Act).

(8H) For the purposes of paragraph (8E)(b) (category C), in applying the rules in Chapter 2 of Part 10 of CTA 2010 to determine whether a company is "a close company", section 442(a) (non-UK resident companies) is to be treated as omitted.**]**

(9) In this Part "fund documents" means—

(a) the instrument constituting the fund, and

(b) the fund's prospectus in issue for the time being [F22]... .

Textual Amendments

F19 Words in reg. 9A(8) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011 (S.I. 2011/2192), regs. 1(1), **3(a)**

F20 Words in reg. 9A(8)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011 (S.I. 2011/2192), regs. 1(1), **3(b)**

F21 Reg. 9A(8A)-(8H) inserted (9.12.2021) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **3(1)**

F22 Words in reg. 9A(9)(b) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(2)**

Modifications etc. (not altering text)

C1 Reg. 9A applied by Taxation of Chargeable Gains Act 1992 (c. 12), **Sch. 7AC para. 30A(1)** (as inserted (with effect in accordance with s. 28(7) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **s. 28(5)**)

C2 Reg. 9A(2)(a) applied by Finance Act 2003 (c. 14), **Sch. 7A para. 8(4)** (as inserted (with effect in accordance with Sch. 16 para. 15) by Finance Act 2016 (c. 24), **Sch. 16 para. 4**)

Clearance in relation to the genuine diversity of ownership condition

9B.—(1) An application for clearance that an authorised investment fund meets the genuine diversity of ownership condition (see regulation 9A) may be made in writing to the Commissioners by the manager (or proposed manager) of an authorised investment fund.

(2) An application for clearance must be accompanied by the fund documents in the form in which it is proposed that those documents will apply at the beginning of the first accounting period of the fund for which clearance is sought.

(3) If regulation 9A(2)(b) and (8) applies, an application for clearance by the authorised investment fund must be accompanied by—

(a) the documents specified in paragraph (2), and

(b) the fund documents of the feeder fund in the form in which it is proposed that those documents will apply at the beginning of the first accounting period of the fund for which clearance is sought.

(4) The Commissioners may require the manager (or proposed manager) to provide further particulars if they believe that full particulars of the fund have not been provided.

(5) The Commissioners must notify the applicant within 28 days of the receipt of the particulars (or, if paragraph (4) applies, of all further particulars required) that they—

(a) give clearance that the fund meets the genuine diversity of ownership condition,

(b) give that clearance subject to conditions, or

(c) refuse to give that clearance.

(6) An authorised investment fund (and investors in that fund) may not rely on a clearance given under this regulation if—

(a) at the beginning of the first accounting period of the fund to which the clearance relates (and at the beginning of each subsequent accounting period), a relevant statement in the fund documents in issue for the time being is not in accordance with a relevant statement in the documents considered by the Commissioners before giving clearance,

(b) the fund acts or is operated in contravention of a relevant statement in the fund documents,

(c) the fund documents are materially amended, or

(d) the fund is operated otherwise than in accordance with condition C of the genuine diversity of ownership condition (see regulation 9A(6)).

(7) If regulation 9A(2)(b) and (8) applies an authorised investment fund (and investors in that fund) may not rely on a clearance given under this regulation if any of sub-paragraphs (a) to (d) of paragraph (6) apply in relation to either the authorised investment fund or the feeder fund.

(8) Paragraph (6)(c) does not apply if the manager of the fund has obtained a clearance given under this regulation which applies to the amendment.

(9) For the purposes of paragraph (6)(c), a material amendment is one that may reasonably be construed as causing, or likely to cause, the fund to fail to meet the genuine diversity of ownership condition in relation to any accounting period.**]**

PART 2

THE TAX TREATMENT OF AUTHORISED INVESTMENT FUNDS

Loan relationships and derivative contracts: exclusion of capital profits, gains or losses

General rule for loan relationships: exclusion of capital profits, gains or losses

10.—(1) This regulation applies if any profits, gains or losses arising to an authorised investment fund from a creditor relationship in an accounting period are capital profits, gains or losses.

(2) For the purposes of Chapter 2 of Part 4 of FA 1996 [M6] (loan relationships) those profits, gains or losses must not be brought into account as credits or debits.

(3) Regulation 12 explains what is meant by "capital profits, gains or losses" in the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice.

[[F23](4) This regulation is subject to regulation 14B (tax treatment of qualified investor schemes.**]**

Textual Amendments

F23 Reg. 10(4) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **5**

Marginal Citations

M6 1996 c. 8.

General rule for derivative contracts: exclusion of capital profits, gains or losses

11.—(1) This regulation applies if any profits, gains or losses arising to an authorised investment fund from a derivative contract in an accounting period are capital profits, gains or losses.

(2) For the purposes of Schedule 26 to FA 2002 [M7] (derivative contracts) those profits, gains or losses must not be brought into account as credits or debits.

(3) Regulation 12 explains what is meant by "capital profits, gains or losses" in the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice.

[[F24](4) This regulation is subject to regulation 14B (tax treatment of qualified investor schemes).**]**

Textual Amendments

F24 Reg. 11(4) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **6**

Marginal Citations

M7 2002 c. 23.

Accounts prepared in accordance with UK generally accepted accounting practice

12.—(1) In the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice, capital profits, gains or losses arising from a creditor relationship in an accounting period, or capital profits, gains or losses arising from a derivative contract in an accounting period, are such profits, gains or losses as fall to be dealt with under **[**[F25]the heading "net capital gains/losses"**]** in the statement of total return for the accounting period.

(2) For the purposes of paragraph (1), the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the authorised investment fund which deals with the accounting period.

[F26](3) . . . . . .

Textual Amendments

F25 Words in reg. 12(1) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **7**

F26 Reg. 12(3) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **5**

[F27]... *Interest distributions and deficits*

Textual Amendments

F27 Words in reg. 12A cross-heading omitted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2015 (S.I. 2015/485), regs. 1(1), **2(2)**

[F28]Deduction of expenses

12A. Where an authorised investment fund makes an interest distribution for a distribution period, the amount that can be deducted under Step 2 in section 4(2) of CTA 2010 (amounts that can be relieved against the company's total profits of the period) cannot exceed an amount that would reduce the total profits chargeable to corporation tax for the accounting period in which the last day of the distribution period falls to below the total amount chargeable to corporation tax in accordance with Part 4 of CTA 2009 for that accounting period.**]**

Textual Amendments

F28 Reg. 12A inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2015 (S.I. 2015/485), regs. 1(1), **2(3)**

Treatment of interest distributions for purposes of loan relationships

13.—(1) Chapter 2 of Part 4 of FA 1996 (loan relationships) has effect in relation to an authorised investment fund and to an interest distribution paid by that fund as it would have effect if the interest distribution were interest payable on a loan to the authorised investment fund and were, accordingly, interest under a loan relationship to which the authorised investment fund were a party.

[[F29](1A) But paragraph (1) only applies to the extent that the interest distribution is derived from income **[**[F30]other than income chargeable to corporation tax in accordance with Part 4 of CTA 2009 and**]** in respect of which the legal owner is charged to corporation tax.**]**

(2) For the purposes of these Regulations, an interest distribution is treated as paid if it is credited to the capital part of the scheme property of an authorised investment fund on behalf of a participant in respect of the participant's accumulation units.

(3) This regulation is subject to regulation 14 **[**[F31]and regulation 14B (tax treatment of qualified investor schemes)**]**.

[[F32](4) In this regulation an "interest distribution" includes a TEF distribution (non-dividend) (see regulation 69Z61(3)).**]**

Textual Amendments

F29 Reg. 13(1A) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **3**

F30 Words in reg. 13(1A) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2015 (S.I. 2015/485), regs. 1(1), **2(4)**

F31 Words in reg. 13(3) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **8**

F32 Reg. 13(4) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **7**

Treatment of deficits on loan relationships

14. Section 83(2)(c) of FA 1996 (carrying back of non-trading deficit on loan relationships) shall not have effect in relation to the loan relationships of an authorised investment fund (so that, accordingly, if for any accounting period there is a deficit on the loan relationships of the authorised investment fund, the deficit may not be carried back to be set off against profits for earlier accounting periods).

[[F33]This is subject to regulation 14B (tax treatment of qualified investor schemes).**]**

Textual Amendments

F33 Words in reg. 14 inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **9**

[[F34]*Authorised investment funds having interests in offshore non-reporting funds*

Textual Amendments

F34 Regs. 14ZA-14ZC and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **4** (with reg. 8)

Interests in offshore non-reporting funds: general

14ZA.—(1) Regulation 14ZB applies if—

(a) an authorised investment fund disposes of an asset which is an interest in a non-reporting fund ("the asset"); and

(b) the conditions in paragraph (2) are satisfied for the period beginning with the date on which the authorised investment fund acquired the asset and ending on the date of the disposal.

(2) The conditions are that—

(a) the authorised investment fund has access to the accounts of the non-reporting fund,

(b) the authorised investment fund had sufficient information about the non-reporting fund referred to in paragraph (1)(a) to enable it to prepare computations of reportable income for the non-reporting fund for every accounting period which, if the non-reporting fund were a reporting fund, would be a reporting period ending within the period mentioned in paragraph (1)(b),

(c) the authorised investment fund has prepared such computations, and

(d) any excess of the authorised investment fund's share of the reportable income of the non-reporting fund over the authorised investment fund's share of the distributions made by the non-reporting fund is included in the amount available for income allocation by the authorised investment fund for each reporting period of the authorised investment fund which falls within the period mentioned in paragraph (1)(b).

(3) An authorised investment fund has an interest in a non-reporting fund if and to the extent that it has an interest in such a fund for the purposes of the Offshore Funds Regulations.

(4) For the purposes of the computations mentioned in paragraph (2)(b), regulation 80 of the Offshore Funds Regulations applies if (and only if) the non-reporting fund is a UCITS fund.

(5) In this regulation, "UCITS fund" has the same meaning as in regulation 12 of the Offshore Funds Regulations and "reporting period" has the same meaning as in regulation 91 of those Regulations.

Treatment of disposal of interest in non-reporting fund

14ZB. No tax shall be charged on the authorised investment fund under regulation 17 of the Offshore Funds Regulations on the disposal by the authorised investment fund of an asset which is an interest in a non-reporting fund at the time of the disposal.

Treatment of interest in non-reporting fund: cases where the conditions in regulation 14ZA(2) would not be satisfied

14ZC.—(1) This regulation applies in relation to an asset of an authorised investment fund ("the asset") which—

(a) is an interest in a non-reporting fund, but

(b) in relation to which the conditions in regulation 14ZA(2) would not (apart from this regulation) be satisfied for the whole of the period specified in regulation 14ZA(1)(b) in relation to the asset.

(2) Paragraph (4) applies if the authorised investment fund, in relation to the asset, reasonably expects to satisfy the conditions in regulation 14ZA(2) for the period beginning with a date to be determined in accordance with paragraph (3) ("the deemed start date") and ending on the date of the disposal of the asset.

(3) The deemed start date is a date to be determined by the authorised investment fund but which must not be earlier than 6th March 2011.

(4) The authorised investment fund is treated for all purposes (including for the purposes of determining the beginning of the period mentioned in regulation 14ZA(1)(b)) as if it had, on the deemed start date, disposed of the asset (and not satisfied the conditions in regulation 14ZA(2)) and immediately reacquired the asset for a consideration equal to its market value on the deemed start date.

(5) The authorised investment fund must notify the Commissioners of the deemed start date by making an appropriate entry in its tax return for the accounting period in which the deemed start date falls.**]**

[[F35]Authorised investment funds with limited investment powers – stamp duty reserve tax

14A.—(1) Where, for the relevant period—

(a) an authorised investment fund is constituted as a unit trust scheme ("the scheme"); and

(b) conditions A to D in this regulation are met,

paragraph 2 of Schedule 19 to the Finance Act 1999 ("FA 1999") shall not apply to a surrender to the scheme that would, but for this regulation, be taxable under Part II of that Schedule.

(2) Condition A is that the scheme must be dedicated to investment in the shares of a specified open-ended investment company to which Part 4A applies ("the PAIF").

(3) Condition B is that—

(a) the trust deed of the scheme must specify that the scheme may only invest in the PAIF; and

(b) the prospectus for the scheme must state that the scheme may only invest in the PAIF.

(4) Condition C is when an investment in the scheme is made, the scheme must (within one working day of that investment) invest in the PAIF an amount equal to the investment.

(5) Condition D is that when a withdrawal of investment from the scheme is made, the scheme must (within one working day of that withdrawal) withdraw from the PAIF an amount equal to the withdrawal.

(6) For the purposes of complying with conditions C and D, an investment in the scheme may not be set off against a withdrawal from the scheme.

(7) A scheme will not be dedicated to investment in the PAIF for the purpose of condition B if it has any assets other than shares in the PAIF and money.

(8) In this regulation—

"relevant period" means the relevant two-week period referred to in paragraph 4(2) of Schedule 19 to FA 1999.

"surrender" means a surrender within the meaning of paragraph 2 of Schedule 19 to FA 1999.

"working day" means a day other than—

(a) a Saturday, Sunday, Christmas Day or Good Friday; or

(b) a Bank Holiday in the United Kingdom under the Banking and Financial Dealings Act 1971.

"money" includes cash held on deposit but does not include securities of any kind.**]**

Textual Amendments

F35 Reg. 14A inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **10**

***[F36** Treatments applying to authorised investment funds with specific investment purposes*

Textual Amendments

F36 Reg. 14ZD and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011 (S.I. 2011/2192), regs. 1(1), **4**

Index tracking funds

14ZD.—(1) This regulation applies if—

(a) an authorised investment fund has an interest in a non-reporting fund, and

(b) the conditions in paragraph (2) are met throughout the relevant period.

(2) The conditions are that—

(a) in accordance with either the authorised investment fund's prospectus or the instrument constituting the authorised investment fund, the aim of the authorised investment fund's investment policy is to replicate the performance of a qualifying index,

(b) the main purpose of the investment in the non-reporting fund is to represent the composition of the qualifying index, and

(c) the capital and income returns of the authorised investment fund replicate as closely as practicable the returns of the investments comprised in the qualifying index.

(3) For the purposes of paragraph (2) an index is a "qualifying index" if—

(a) it is based solely on the value of securities listed on a recognised stock exchange or admitted to trading on a regulated market,

(b) either **[**[F37]the Financial Conduct Authority**]** or an authority responsible for regulating offshore funds recognises the index on the basis that—

(i) its composition is sufficiently diverse,

(ii) it represents an adequate benchmark for the market to which it refers, and

(iii) it is published in such a way that it is widely available, and

(c) it is calculated and published by a body which is managed independently from the management of the authorised investment fund.

(4) Regulation 17 of the Offshore Funds Regulations does not apply in respect of a disposal of the interest in the non-reporting fund by the authorised investment fund.

(5) In this regulation "the relevant period" means the period—

(a) starting on the day the authorised investment fund acquires the interest in the non-reporting fund (or any part of it), and

(b) ending on the day of the disposal of the interest.

(6) In this regulation—

[F38](a) . . . . . .

[[F39](b) "regulated market" means—

(i) a UK regulated market within the meaning given by Article 2.1(13A) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments,

(ii) an EU regulated market within the meaning given by Article 2.1(13B) of that Regulation, and

[[F40](iii) a Gibraltar regulated market within the meaning given by Article 26(11)(b)(i) of that Regulation.**]]**

Textual Amendments

F37 Words in reg. 14ZD(3)(b) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **28(2)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

F38 Reg. 14ZD(6)(a) and word omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **28(2)(b)(i)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

F39 Reg. 14ZD(6)(b) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **28(2)(b)(ii)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

F40 Reg. 14ZD(6)(b)(iii) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/818), regs. 1(3), **9(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Authorised investment funds with limited investment powers – stamp duty reserve tax

[F41]**14A.** . . . . . .

Textual Amendments

F41 Reg. 14A omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Stamp Duty Reserve Tax (Finance Act 1999, Schedule 19) (Consequential Amendments) Regulations 2014 (S.I. 2014/1932), regs. 1(1), **4(2)**

[F42PART 2A

Qualified Investor Schemes

Textual Amendments

F42 Pt. 2A inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **11** (with reg. 30)

Tax treatment of qualified investor schemes

14B.—(1) The provisions in paragraph (2) shall not apply to a qualified investor scheme in relation to an accounting period of the scheme unless the genuine diversity of ownership condition (see regulation **[**F43**9A]**) is met in relation to that accounting period.

(2) The provisions referred to in paragraph (1) are—

(a) the provisions of Part 2 of these Regulations,

F44(aa) **[** the provisions of Part 4 of these Regulations,**]**

(b) the provisions of Part 4A of these Regulations,

(c) where the qualified investor scheme is an authorised unit trust scheme, section 468(1A) of ICTA,

(d) where the qualified investor scheme is an open-ended investment company, section 468A(1) of ICTA,

(e) in subsection (1) of section 99 of TCGA 1992 (as modified by these Regulations) the words "except that nothing in this section" to the end of that sub-section, and

(f) section 100 of TCGA 1992.

(3) Where the genuine diversity of ownership condition is not met in relation to an accounting period of the scheme—

F45(a) . . . . . .

[F46(b) the total amount available for income allocation to participants must only be allocated in accordance with paragraph (1)(b) of regulation 17 (allocation of income)**][**F47, and

(c) Part 3A of CTA 2010 (companies with small profits) does not apply.**]**

(4) In these Regulations a "qualified investor scheme" means a fund, authorised by the **[**F48appropriate regulator**]**, in which a statement that the fund is a qualified investor scheme is included in the instrument constituting the scheme.

F49(5) . . . . . **]**

Textual Amendments

F43 Word in reg. 14B(1) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **8(1)**

F44 Reg. 14B(2)(aa) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **8(2)**

F45 Reg. 14B(3)(a) omitted (9.12.2021) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **4(a)**

F46 Reg. 14B(3)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **6** (with reg. 24)

F47 Reg. 14B(3)(c) and word inserted (9.12.2021) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **4(b)**

F48 Words in reg. 14B(4) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

F49 Reg. 14B(5) omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **8(3)**

The genuine diversity of ownership condition

[F50]14C. . . . . . .

Textual Amendments

F50 Reg. 14C omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **9**

Clearance in relation to the genuine diversity of ownership condition

[F51]14D. . . . . . .

Textual Amendments

F51 Reg. 14D omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **9**

[F52]PART 2AA

LONG-TERM ASSET FUNDS

Textual Amendments

F52 Pt. 2AA inserted (9.12.2021) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **3(2)**

Tax treatment of long-term asset funds

14DA.—(1) The provisions in paragraph (2) do not apply to a long-term asset fund in relation to an accounting period of the fund unless the genuine diversity of ownership condition is met in relation to that accounting period.

(2) The provisions referred to in paragraph (1) are—

(a) the provisions of Part 2 of these Regulations,

(b) the provisions of Part 4 of these Regulations,

(c) the provisions of Part 4A of these Regulations,

(d) in section 99(1) of TCGA 1992, the words from "except that nothing in this section" to the end of that subsection,

(e) section 100 of TCGA 1992,

(f) where the fund is an open-ended investment company, section 614 of CTA 2010, and

(g) where the fund is an authorised unit trust, section 618 of CTA 2010.

(3) Where the genuine diversity of ownership condition is not met in relation to an accounting period of the fund—

(a) Part 3A of CTA 2010 (companies with small profits) does not apply, and

(b) the total amount shown in the distribution accounts available for distribution to participants must only be shown as available for distribution in accordance with paragraph (1)(b) of regulation 17 (allocation of income for distribution as dividends).

(4) In these Regulations, a "long-term asset fund" means an authorised investment fund whose instrument constituting the fund contains a statement that the fund is a long-term asset fund.**]**

[[F53]PART 2B

DIVERSELY OWNED AIFS

Textual Amendments

F53 Pt. 2B inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **10**

Tax treatment of diversely owned AIFs

14E.—(1) This regulation applies to an authorised investment fund in respect of an accounting period if—

(a) the fund carries out an investment transaction in that period, and

(b) the fund meets the genuine diversity of ownership condition in relation to that period.

(2) In these Regulations an authorised investment fund to which this regulation applies is referred to as a "diversely owned AIF".

(3) If the profits or losses, as the case may be, arising from an investment transaction are capital profits, gains or losses, that investment transaction shall be treated as a non-trading transaction of the diversely owned AIF for the purposes of corporation tax.

(4) Chapter 2 of Part 3 of CTA 2009 (income taxed as trade profits) does not apply to capital profits and losses arising from such an investment transaction.

(5) For the purposes of these Regulations "investment transaction" means a transaction specified in **[**[F54]regulation 2 of the Investment Transactions (Tax) Regulations 2014**]**.

(6) For the purposes of paragraphs (3) and (4) capital profits, gains or losses arising from an investment transaction in an accounting period are such profits, gains or losses as fall to be dealt with under the heading "net capital gains/losses" in the statement of total return for an accounting period.

(7) For the purposes of paragraph (6), the "statement of total return for an accounting period" has the same meaning as in regulation 12(2).

Textual Amendments

F54 Words in reg. 14E(5) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(2)**

Meaning of "investment transaction"

[F55]**14F.** . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Meaning of relevant contracts: general

[F55]**14G.** . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Meaning of relevant contract: options

[F55]**14H.** . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Meaning of relevant contract: futures

[F55]**14I.** . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Meaning of relevant contract: options and futures - general provisions

[F55]14J. . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Meaning of relevant contract: contract for differences

[F55]14K. . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Loan relationships or related transactions

[F55]14L. . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Units in a collective investment scheme

[F55]14M. . . . . . .

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

Carbon emission trading products

[F55]14N. . . . . . .**]**

Textual Amendments

F55 Regs. 14F-14N omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Investment Transactions (Tax) Regulations 2014 (S.I. 2014/685), regs. 1(1), **7(3)**

PART 3

DISTRIBUTIONS MADE BY AUTHORISED INVESTMENT FUNDS

Preliminary

Interpretation

15.—**[**[F56](1) In these Regulations—

(a) "income allocation" means the distribution of an amount to participants; and

(b) "distribution" includes the crediting of an amount to the capital part of the scheme property on behalf of a participant in respect of the participant's accumulation units.**]**

(2) In these Regulations "distribution period", in relation to an authorised investment fund, means a period by reference to which the total amount available for **[**[F57]income allocation to participants**]** is ascertained.

[F58](3) . . . . . .

(4) In these Regulations the "distribution date" for a distribution period of an authorised investment fund means—

(a) the date specified by or in accordance with the terms of the trust or the instrument of incorporation of the company for any distribution for that distribution period, or

(b) if no date is specified, the last day of that distribution period.

Textual Amendments

F56 Reg. 15(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **7(2)** (with reg. 24)

F57 Words in reg. 15(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **7(3)** (with reg. 24)

F58 Reg. 15(3) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **7(4)** (with reg. 24)

Funds excluded from the ambit of this Part

16. This Part does not apply to an authorised investment fund if the fund—

(a) is a registered pension scheme within the meaning of Part 4 of the Finance Act 2004 [M8], or

(b) is treated, under paragraph 1(1) of Schedule 36 to that Act, as having become such a scheme.

Marginal Citations

M8 2004 c. 12.

F59 ...

Textual Amendments

F59 Reg. 17 cross-heading omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **8(2)** (with reg. 24)

[F60 Allocation of income]

17.—[F61(1) The total amount available for income allocation must be allocated in one of the following ways—

(a) for distribution as yearly interest (see regulations 18 to 21); or

(b) for distribution as dividends (see regulation 22).]

[F62(1A) Paragraph (1) does not apply in relation to an authorised investment fund to which Part 4A or 4B applies.]

F63(2) . . . . . .

Textual Amendments

F60 Reg. 17 heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **8(2)** (with reg. 24)

F61 Reg. 17(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **8(3)** (with reg. 24)

F62 Reg. 17(1A) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **11**

F63 Reg. 17(2) omitted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2015 (S.I. 2015/485), regs. 1(1), **2(5)**

Interest distributions

Interest distributions: general

18.—(1) Paragraph (2) applies where the total amount [F64available for income allocation is allocated] for distribution as yearly interest.

(2) The Tax Acts shall have effect as if the total amount were payments of yearly interest made on the distribution date by the authorised investment fund to the participants in proportion to their rights.

[F65(2A) For the purposes of Part 10 (Corporate Interest Restriction) of TIOPA 2010, an interest distribution is treated as not being a tax-interest expense amount of the authorised investment fund.]

(3) In these Regulations an "interest distribution" means a payment of yearly interest treated as made by virtue of paragraph (2) (including a payment of interest treated as made to a participant who is not chargeable to income tax).

(4) This regulation is subject to—

(a) regulation 19 (the qualifying investments test), and

(b) regulation 23 (treatment of de minimis amounts).

Textual Amendments

F64 Words in reg. 18(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **9** (with reg. 24)

F65 Reg. 18(2A) inserted (29.12.2017) by The Corporate Interest Restriction (Consequential Amendments) Regulations 2017 (S.I. 2017/1227), regs. 1, **2(2)**

The qualifying investments test

19.—(1) No amount may be shown as available for distribution as yearly interest unless the authorised investment fund in question satisfies the qualifying investments test throughout the distribution period.

(2) An authorised investment fund satisfies the qualifying investments test throughout a distribution period (the "relevant period") if, at all times in that period, the market value of the qualifying investments exceeds 60% of the market value of all the investments of the fund.

(3) Regulations 20 and 21 deal with the meaning of the expression "qualifying investments".

Meaning of "qualifying investments"

20. In these Regulations "qualifying investments", in relation to an authorised investment fund, means the investments of that fund which fall within any of the following categories (read, as appropriate, with any applicable provision in regulation 21)—

Category 1

Money placed at interest.

Category 2

Securities.

Category 3

Shares in a building society.

Category 4

Qualifying units in another authorised investment fund.

[[F66]Category 4A

Qualifying units in an offshore fund.**]**

Category 5

Derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in categories 1 to **[**[F67]4A**]** and currency.

Category 6

Contracts for differences whose underlying subject matter consists wholly of any one or more of interest rates, creditworthiness and currency.

Category 7

Derivative contracts not within categories 5 or 6 where there is a hedging relationship between the derivative contract and an asset within categories 1 to **[**[F67]4A**]**.

Category 8

Alternative finance arrangements.

Textual Amendments

F66 Words in reg. 20 inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **10**

F67 Word in reg. 20 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011 (S.I. 2011/2192), regs. 1(1), **5**

Meaning of "qualifying investments": further provisions

21.—(1) This regulation applies for the purposes of regulation 20.

(2) For the purposes of category 2 "securities" do not include shares in a company.

(3) For the purposes of category 4 units in another authorised investment fund are qualifying units at any time in the relevant period if, and only if, the other authorised investment fund would itself (on the relevant assumption) satisfy the qualifying investments test throughout that period.

(4) For the purposes of paragraph (3) the relevant assumption is that the only investments of the other authorised investment fund which are to be regarded as qualifying investments are those falling within categories 1 to 3 and 5 to 8.

(5) In paragraph (4) references to investments of an authorised investment fund—

(a) in the case of an open-ended investment company are references to investments comprised in the scheme property of that company, but do not include references to cash awaiting investment, and

(b) in the case of an authorised unit trust are references to investments subject to the trusts of that authorised unit trust, but do not include references to cash awaiting investment.

[[F68](5A) For the purpose of category 4A, units in an offshore fund are qualifying units at any time in the relevant period if, and only if, the offshore fund would itself (on the relevant assumption) satisfy the qualifying investments test throughout that period.

(5B) For the purposes of paragraph (5A), the relevant assumption is that the only investments of the offshore fund which are to be regarded as qualifying investments are those falling within categories 1 to 3 and 5 to 8.

(5C) In paragraph (5B), references to investments of an offshore fund—

(a) in the case of an offshore fund which is a company, are references to investments which are the investments of the company, but do not include cash awaiting investment, and

(b) in the case of any other offshore fund, are references to investments subject to the trust or other arrangements constituting the investments of the other offshore fund, but do not include cash awaiting investment.**]**

(6) For the purposes of categories 5 and 6 "underlying subject matter" has the same meaning as in paragraph 11 of Schedule 26 to FA 2002 [M9].

(7) For the purposes of categories 5 and 6 underlying subject matter may consist of currency only if and to the extent that there is a hedging relationship between the contract and a qualifying investment falling within categories 1 to 4.

(8) In paragraph (7) "hedging relationship" has the meaning given by paragraph 12(14) of Schedule 26 to FA 2002 [M10].

(9) For the purposes of category 6 a "contract for differences" has the same meaning as in paragraph 12 of Schedule 26 to FA 2002 [M11].

(10) For the purposes of category 7 a fund has a hedging relationship between a derivative contract on the one hand ("the hedging instrument") and an asset on the other ("the hedged item") if and to the extent that—

(a) the hedging instrument and the hedged item are designated by the fund as a hedge, or

(b) in any other case the hedging instrument is intended to act as a hedge of the exposure to changes in fair value of a hedged item which is a recognised asset or an identified portion of such an asset that is attributable to a particular risk and could affect the total net return of the fund.

(11) For the purposes of category 8 "alternative finance arrangements" has the meaning given by section 46(1) of the Finance Act 2005 [M12].

Textual Amendments

F68 Reg. 21(5A)-(5C) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **11**

Marginal Citations

M9 2002 c. 23. Paragraph 11 of Schedule 26 was amended by Article 12 of S.I. 2004/2201.

M10 Paragraph 12(14) of Schedule 26 to the Finance Act 2002 was added by Article 9 of S.I. 2005/646.

M11 Paragraph 12 of Schedule 26 to the Finance Act 2002 was amended by Article 13 of S.I. 2004/2201 and Article 9 of S.I. 2005/646.

M12 2005 c. 7.

Dividend distributions

Dividend distributions: general

22.—(1) Paragraph (2) applies where the total amount **[**[F69]available for income allocation is allocated**]** for distribution as dividends.

(2) The Tax Acts shall have effect as if the total amount were dividends on shares paid on the distribution date by the authorised investment fund to the participants in proportion to their rights **[**[F70](but see regulation 96A (modification of CTA 2009))**]**.

(3) In these Regulations a "dividend distribution" means a dividend treated as paid by virtue of paragraph (2) (including a dividend treated as paid to a participant who is not chargeable to corporation tax).

(4) This regulation is subject to regulation 23 (treatment of de minimis amounts).

Textual Amendments

F69 Words in reg. 22(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **12** (with reg. 24)

F70 Words in reg. 22(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **4**

De minimis amounts

Provisions applying if amounts available for distribution are de minimis

23.—(1) An authorised investment fund is not treated as making a distribution for a distribution period if conditions A to D are met.

(2) Condition A is that, in accordance with rules made by the **[**[F71]appropriate regulator**]**, the authorised investment fund has an agreed de minimis limit.

(3) Condition B is that the authorised investment fund—

[[F72](a) has calculated that the total income available for income allocations is a de minimis amount, and

(b) chooses to waive the allocation of that de minimis amount.**]**

(4) Condition C is that the de minimis amount is carried forward to the next distribution period as an amount available for distribution to participants.

(5) Condition D is that none of the units of the authorised investment fund in issue on the distribution date are in bearer form.

(6) If this regulation applies, the authorised investment fund is not required to comply with the requirements of section 234A of ICTA [M13] (information relating to distributions) in respect of the de minimis amount for the distribution period in question.

(7) In this regulation—

the "de minimis limit", in relation to an authorised investment fund, means an amount in respect of which a distribution of income of the fund is not required if the total amount **[**[F73]available for income allocation**]** to participants does not exceed that amount, and

"de minimis amount" means an amount falling within the de minimis limit.

Textual Amendments

F71 Words in reg. 23(2) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

F72 Reg. 23(3)(a)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **13(2)** (with reg. 24)

F73 Words in reg. 23(7) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **13(3)** (with reg. 24)

Marginal Citations

M13 Section 234A was inserted by section 32(1) of the Finance (No. 2) Act 1992 (c. 48) and amended by paragraph 2(2) of Schedule 37 to the Finance Act 1996 (c. 8).

PART 4

THE TREATMENT OF PARTICIPANTS IN AUTHORISED INVESTMENT FUNDS

CHAPTER 1

PRELIMINARY PROVISIONS

Structure of this Part

24. The structure of this Part of these Regulations is as follows—

this Chapter contains preliminary provisions;

Chapter 2 contains provisions relating to the tax treatment of participants chargeable to income tax;

Chapter 3 contains provisions relating to the tax treatment of participants chargeable to corporation tax;

[F74] …

Textual Amendments

F74 Words in reg. 24 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **12**

Funds excluded from the ambit of this Part

25. This Part does not apply to an authorised investment fund if the fund—

(a) is a registered pension scheme within the meaning of Part 4 of the Finance Act 2004 [M14], or

(b) is treated, under paragraph 1(1) of Schedule 36 to that Act, as having become such a scheme.

Marginal Citations

M14 2004 c. 12.

CHAPTER 2

PARTICIPANTS CHARGEABLE TO INCOME TAX

Deduction of tax from interest distributions: general

Deduction of tax where interest distributions made

26.—(1) This regulation applies if an interest distribution is made for a distribution period to a participant chargeable to income tax.

(2) Any obligation to deduct a sum under **[**[F75]section 874 of ITA 2007**]** is subject to the provisions of this regulation.

(3) In this Part the "deduction obligation" means the obligation specified in paragraph (2).

(4) The deduction obligation does not apply to the interest distribution if—

(a) the participant is a company;

(b) the participant consists of the trustees of a unit trust scheme;

(c) the reputable intermediary condition is met with respect to a participant on the distribution date (see regulation 27); [F76]...

(d) the residence condition is met with respect to a participant on the distribution date (see regulation 30); [F77]...

[F77](e) . . . . . **[**[F78], or

(f) the offshore marketing condition is met with respect to the class of units in relation to which the distribution is made (see regulation 33A)**]**.

(5) But if the participant is a company which is the trustee of the trust to which (or under which) the interest distribution is made (or received), the deduction obligation is not excluded by virtue of paragraph (4)(a).

(6) In its application to an interest distribution to a participant in respect of accumulation units, the deduction obligation is an obligation to deduct a sum out of the amount being credited to scheme capital on the participant's behalf.

Textual Amendments

F75 Words in reg. 26(2) substituted (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **3(a)**

F76 Word in reg. 26(4)(c) omitted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **3(b)(i)**

F77 Reg. 26(4)(e) and preceding word revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(b)**

F78 Reg. 26(4)(f) and preceding word inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **3(b)(ii)**

The reputable intermediary condition

The reputable intermediary condition

27.—(1) The reputable intermediary condition is met with respect to a participant on the distribution date if conditions A to C are met.

(2) Condition A is that the interest distribution is paid on behalf of the participant to a company.

(3) Condition B is that the legal owner has reasonable grounds for believing that the participant is not [F79]... resident in the United Kingdom.

(4) Condition C is that the company mentioned in paragraph (2)—

(a) is subject to the EC Money Laundering Directive,

(b) is subject to equivalent non-EC provisions, or

(c) is a company which—

(i) is resident in a regulating country or territory, and

(ii) is an associated company of a company which is subject to paragraph (a) or (b).

Textual Amendments

F79 Word in reg. 27(3) omitted (with effect in accordance with reg. 1(2)(c) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **7**

The reputable intermediary condition: further provisions

28.—(1) This regulation applies for the purposes of Condition C in regulation 27.

(2) A company is subject to the EC Money Laundering Directive if it is a credit institution or financial institution as defined by Article 1 of Directive 91/308/EEC, as amended by Directive 2001/97/EC.

(3) A company is subject to equivalent non-EC provisions if it is required by the law of any country or territory which is not a member State to comply with requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

(4) A country or territory is a regulating country or territory if it either is a member State or imposes requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

(5) A company is to be treated as another's associated company if it would be so treated for the purposes of Part 11 of ICTA (close companies) (see section 416 of that Act).

Consequences of reasonable but incorrect belief

29.—(1) This regulation applies if conditions A to D are met.

(2) Condition A is that an interest distribution is made to a participant.

(3) Condition B is that the legal owner, in reliance on the reputable intermediary condition being met with respect to the participant, does not comply with the deduction obligation in relation to the interest distribution.

(4) Condition C is that the deduction obligation would apply but for the reputable intermediary condition being met.

(5) Condition D is that (contrary to the belief of the legal owner) the participant is in fact [F80]... resident in the United Kingdom.

(6) Section 350 of ICTA [M15] (charge to tax where payments made under section 349) and Schedule 16 to that Act [M16] (collection of income tax on company payments which are not distributions) have effect as if the deduction obligation applied.

Textual Amendments

F80 Word in reg. 29(5) omitted (with effect in accordance with reg. 1(2)(c) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **8**

Marginal Citations

M15 Section 350 was amended by paragraph 8 of Schedule 6 to the Finance Act 1996 and section 96(2) of the Finance Act 2002.

M16 Schedule 16 was amended by section 149(3)(d) of the Finance Act 1989 (c. 26), Part II of Schedule 23 to the Finance Act 1996, section 91 of the Finance Act 1999 (c. 16) and paragraph 19 of Part 1 of Schedule 3 to the Debt Arrangement and Attachment (Scotland) Act 2002 (asp. 17).

The residence condition

The residence condition

30.—(1) The residence condition is met with respect to a participant on the distribution date if any of conditions A to E is met.

(2) Condition A is that, in relation to an interest distribution which is not made to or received under a trust, there is a valid declaration, made by the participant, that the participant is not [F81]... resident in the United Kingdom.

(3) Condition B is—

(a) that the participant holds the units as the personal representative of a deceased person, and

(b) that the deceased, before his death, made a declaration, valid at the time of his death, that he was not [F82]... resident in the United Kingdom.

(4) Condition C is—

(a) that the participant holds the units as the personal representative of a deceased person, and

(b) that the personal representative has made a declaration that the deceased, immediately before his death, was not [F83]... resident in the United Kingdom.

(5) Condition D is that, in the case of an interest distribution made to or received under a trust where the whole of the income is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, there is a valid declaration, made by the person in question that **[**[F84]the person is**]** not resident in the United Kingdom.

(6) Condition E is that, in circumstances in which condition D does not apply and with respect to a participant in the case of an interest distribution made to or received under a trust, there is a valid declaration, made by the trustees of that trust that—

(a) the trustees are not resident in the United Kingdom, and

(b) each beneficiary of the trust is [F85]... not resident in the United Kingdom.

Textual Amendments

F81 Word in reg. 30(2) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **9(a)**

F82 Word in reg. 30(3)(b) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **9(a)**

F83 Word in reg. 30(4)(b) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **9(a)**

F84 Words in reg. 30(5) substituted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **9(b)**

F85 Words in reg. 30(6)(b) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **9(c)**

Residence declarations

31.—(1) A declaration made for the purposes of regulation 30 must—

(a) be in such form as may be required or authorised by the Commissioners;

(b) be made in writing to the legal owner of the authorised investment fund in question; and

(c) contain any details or undertakings required by paragraphs (2) to (4) below.

(2) A declaration made for the purposes of condition A or B in regulation 30 must contain—

(a) the name and principal residential address of the person making it; and

(b) an undertaking that he will notify the legal owner if he becomes [F86]... resident in the United Kingdom.

(3) A declaration made for the purposes of condition C in regulation 30 must contain the name of the deceased and his principal residential address immediately before his death.

(4) A declaration made for the purposes of condition D or E in regulation 30 must contain—

(a) the names and principal residential addresses of the trustees of the trust or, in the case of a trustee which is a company, the name of the company and the address of its registered or principal office;

(b) the names and principal residential addresses of the beneficiaries of the trust or, in the case of a beneficiary which is a company, the name of the company and the address of its registered or principal office; and

(c) an undertaking that the trustees of the trust will notify the legal owner of the authorised investment fund in question if—

(i) they become resident in the United Kingdom,

(ii) any beneficiary of the trust named in the declaration becomes [F87]... resident in the United Kingdom, or

(iii) any person who becomes a beneficiary of the trust after the making of the declaration either is at the time of becoming a beneficiary, or subsequently becomes, [F87]... resident in the United Kingdom.

Textual Amendments

F86 Word in reg. 31(2)(b) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **10(a)**

F87 Words in reg. 31(4)(c)(ii)(iii) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **10(b)**

References to beneficiaries in regulations 30 and 31

32. In regulations 30 and 31 references to a beneficiary are references to any person who is known to the trustees of the trust to be either—

(a) a person who is or will or may become, entitled to any income of the trust, whether in the form of income or not, or

(b) a person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by them.

Interest distributions: the position of the legal owner

33.—(1) For the purposes of determining whether an interest distribution should be made with or without any deduction, the legal owner is entitled to treat a declaration made for the purposes of regulation 30 as valid.

(2) But the legal owner may not treat a declaration as valid if condition A or B is met.

(3) Condition A is that the legal owner receives a notification in compliance with an undertaking under regulation 31 that a person in question has become resident [F88]... in the United Kingdom.

(4) Condition B is that the legal owner comes into possession of information by some other means which indicates that such a person is or may be resident [F88]... in the United Kingdom**.**

Textual Amendments

F88 Words in reg. 33(3)(4) omitted (with effect in accordance with reg. 1(2)(d) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **11**

[[F89]The offshore marketing condition

33A. The offshore marketing condition is met with respect to a class of units if—

(a) marketing of units of that class is not directed to investors resident in the United Kingdom, and

(b) before units of that class are acquired, information in relation to those units is available to investors to the effect that—

(i) no sum representing income tax will be deducted from any interest distribution in relation to those units, and

(ii) an investor must notify HM Revenue and Customs of any distribution in relation to such units if the investor is chargeable to income tax for the tax year in which the distribution date falls.**]**

Textual Amendments

F89 Reg. 33A inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **4**

The non-liability condition

The non-liability condition

[F90]**34.** . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Qualifying certificates

[F90]35. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The contents condition

[F90]36. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The supplier condition

[F90]37. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The time limit condition

[F90]38. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The continuing validity condition

[F90]39. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The qualifying circumstances condition

[F90]40. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

The joint holding condition

[F90]41. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Qualifying certificates valid for only part of jointly held accounts: introductory

[F90]42. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Qualifying certificates valid for only part of jointly held accounts: the general rule

[F90]43. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Qualifying certificates valid for only part of jointly held accounts: further provisions

[F90]44. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Consequences of notice under regulation 39(6)

[F90]45. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

Qualifying certificate not in writing

[F90]46. . . . . . .

Textual Amendments

F90 Regs. 34-46 revoked (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **8(c)**

[[F91]Annual payments to non-residents

Textual Amendments

F91 Regs. 46A, 46B and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2013 (S.I. 2013/1772), regs. 1(1), **2(2)**

Annual Payments – duty to deduct income tax

46A.—(1) An annual payment made to a participant which meets the conditions in paragraphs (2) to (6) is not a qualifying annual payment for the purposes of Chapter 6 of Part 15 of ITA 2007 (deduction from annual payments and royalties).

(2) The payment must be charged to income tax under Chapter 7 of Part 5 of ITTOIA 2005 (annual payments not otherwise charged).

(3) The payment must be made in respect of the participant's interest in an authorised investment fund other than a Property AIF.

(4) The payment and the amount of the payment must be directly or indirectly referable to, and must not be more than, any management fees paid to the manager of the authorised investment fund in respect of the participant's interest in the fund.

(5) Any management fees must not exceed an amount representing a reasonable commercial amount in all the circumstances.

(6) At the time the payment is made, the person making the payment must have reasonable grounds for believing **[**[F92]that—

(a) the participant is not resident in the United Kingdom, or

(b) the payment is made in respect a class of units in relation to which of the offshore marketing condition in regulation 33A is met.**]**

Textual Amendments

F92 Words in reg. 46A(6) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **5**

Consequences of reasonable but incorrect belief

46B.—(1) This regulation applies if—

(a) an annual payment is made to a participant without a sum representing income tax on the payment being deducted from it,

(b) at the time the payment is made, the condition in **[**[F93]regulation 46A(6)(a)**]** is met,

(c) the payment would be a qualifying annual payment but for that condition being met, and

(d) at the time the payment is made, the participant is resident in the United Kingdom.

(2) Section 900 (deduction from commercial payments made by individuals) and section 901 (deduction from annual payments made by other persons) of ITA 2007 apply as if the payment were a qualifying annual payment.**]**

Textual Amendments

F93 Words in reg. 46B(1)(b) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/2994), regs. 1(1), **6**

CHAPTER 3

PARTICIPANTS CHARGEABLE TO CORPORATION TAX

Interest distributions

The obligation to deduct tax

47.—(1) This regulation applies if an interest distribution is made for a distribution period to a participant chargeable to corporation tax.

(2) The deduction obligation does not apply to the interest distribution.

(3) But if the participant is a company which is the trustee of the trust to which (or under which) the interest distribution is made (or received), the deduction obligation is not excluded by virtue of paragraph (2).

(4) In its application to an interest distribution to a participant in respect of accumulation units, the deduction obligation is an obligation to deduct a sum out of the amount being invested on the participant's behalf.

Dividend distributions

General

48.—(1) Paragraph (2) applies if—

(a) a dividend distribution for a distribution period is made to a participant by the legal owner of an authorised investment fund, and

(b) on the distribution date for that distribution period the participant is within the charge to corporation tax.

(2) **[**[F94]Subject to paragraphs (2A)**[**[F95], (2B) and (2BA)**]**,**]** for the purpose of computing the corporation tax chargeable upon the participant, the unfranked part of the dividend distribution is treated—

(a) as an annual payment and not as a dividend distribution or an interest distribution; and

(b) as having been received by the participant after deduction of **[**[F96]tax at a rate equal to the basic rate of income tax**]** for the **[**[F97]tax year**]** in which the distribution date falls, from a corresponding gross amount.

[[F98](2A) But paragraph (2) does not apply to a dividend distribution to which **[**[F99]Chapter 2 of Part 3 of CTA 2009**]** applies **[**[F100]unless the dividend distribution is made to—

(a) an insurance company in respect of any non-BLAGAB long-term business carried on by it, or

(b) an insurance special purpose vehicle that is not an insurance company in respect of any long-term business carried on by it that does not consist wholly of PHI business.

Expressions used in paragraph (a) or (b) have the same meaning as they have in Part 2 of FA 2012**]**.

(2B) If, on the distribution date, the participant is the manager of the authorised investment fund, paragraph (2) shall not apply to the extent that the rights in respect of which the dividend distribution is made are held by him in the ordinary course of the manager's business as manager of the fund.**]**

[[F101](2BA) Paragraph (2)(b) does not apply to so much of any dividend distribution as on a just and reasonable apportionment is attributable to an unallowable arrangement.

(2BB) For the purposes of paragraph (2BA), an unallowable arrangement is an arrangement the main purpose or one of the main purposes of which is to secure that an amount of tax, or an increased amount of tax, is treated as deducted under paragraph (2)(b).

(2BC) In paragraph (2BB), "arrangement" includes any arrangement, agreement, scheme, transaction, series of transactions or understanding (whether or not legally enforceable).**]**

[[F102](2C) Regulation 48A makes provision in relation to the unfranked part of the dividend distribution treated as an annual payment under paragraph (2)(a) and regulation 48B makes provision in relation to the tax treated as deducted under paragraph (2)(b).**]**

(3) Regulation 49 explains how to calculate the unfranked part of the dividend distribution.

[[F103](4) This regulation does not apply in respect of a holding in a qualified investor scheme if the scheme has not met the genuine diversity of ownership condition in regulation **[**[F104]9A**]** in relation to an accounting period.**]**

Textual Amendments

F94 Words in reg. 48(2) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **13(2)**

F95 Words in reg. 48(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **5(2)**

F96 Words in reg. 48(2)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **4(2)**

F97 Words in reg. 48(2)(b) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **13(3)(b)**

F98 Reg. 48(2A)(2B) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **13(4)**

F99 Words in reg. 48(2A) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **14**

F100 Words in reg. 48(2A) inserted (1.1.2013) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2012 (S.I. 2012/3043), regs. 1(2), **2(2)** (with reg. 1(2))

F101 Reg. 48(2BA)-(2BC) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **5(3)**

F102 Reg. 48(2C) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **4(3)**

F103 Reg. 48(4) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **13(5)**

F104 Word in reg. 48(4) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **12**

[[F105]Income treated as an annual payment treated as foreign income

48A. If there is a foreign element of the tax treated as deducted under regulation 48(2)(b) (see regulation 48B), a corresponding proportionate part of the distribution which is treated as an annual payment under regulation 48(2)(a) is treated as if it were income that—

(a) arises in a territory of the kind mentioned in regulation 48B(3)(a), and

(b) is income by reference to which the tax treated under that provision as payable was computed.

Textual Amendments

F105 Regs. 48A, 48B inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **5**

Tax treated as deducted from a dividend distribution

48B.—(1) The tax treated as deducted under regulation 48(2)(b) ("the deemed deduction") is treated as income tax.

(2) But paragraph (1) does not apply to any foreign element of the deemed deduction.

(3) Instead, for the purposes of the Tax Acts the foreign element of the deemed deduction is treated as if it were tax—

(a) payable under the law of a territory outside the United Kingdom with which there are not in force any arrangements under section 2(1) of TIOPA 2010 (double taxation relief by agreement),

(b) calculated by reference to income arising or any chargeable gain accruing, in the territory, and

(c) corresponding to United Kingdom corporation tax.

(4) The amount of the foreign element of the deemed deduction is the amount, if any, by which the participant's portion of the legal owner's liability to corporation tax in respect of the gross income is reduced by any relief which is given, or falls to be given by way of a credit under section 18 of TIOPA 2010 (entitlement to credit for foreign tax reduces UK tax by amount of the credit).

(5) For the purposes of paragraph (4) the participant's portion shall be determined by reference to the proportions in which participants have rights in the authorised investment fund in the distribution period in question.**]**

Textual Amendments

F105 Regs. 48A, 48B inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **5**

Calculation of unfranked part of dividend distribution

49.—(1) This is how to calculate the unfranked part of the dividend distribution—

$$U = \frac{A \times C}{D}$$

(2) In paragraph (1)—

U = the unfranked part of the dividend distribution to the participant;

A = the amount of the dividend distribution;

[[F106]C = such amount of the gross income as derives from income in respect of which the legal owner is charged to corporation tax, as reduced by—

(a) any amount carried forward from an earlier accounting period and allowed as a deduction in computing the legal owner's liability to corporation tax for the accounting period in which the last day of the distribution period falls, and

(b) an amount equal to the legal owner's net liability to corporation tax in respect of the gross income.**]**

D = the amount of the gross income, as reduced by an amount equal to the legal owner's net liability to corporation tax in respect of the gross income.

[F107](2A) . . . . . .

(3) Any reference in this regulation to the legal owner's net liability to corporation tax in respect of the gross income is a reference to the amount of the liability of the legal owner to corporation tax in respect of that gross income less the amount (if any) of any reduction of that liability which is given or falls to be given in accordance with any arrangements having effect by virtue of section 788 of ICTA (relief by agreement with other territories) or by way of a credit under section 790(1) of that Act (unilateral relief).

Textual Amendments

F106 Words in reg. 49(2) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **6(2)**

F107 Reg. 49(2A) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **6(3)**

References to gross income

[F108 50. For the purposes of this Chapter, references to gross income are references to the net revenue before taxation determined in accordance with the Statement of Recommended Practice.**]**

Textual Amendments

F108 Reg. 50 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **15** (with reg. 24)

[F109 Participants chargeable to corporation tax: holdings in qualified investor schemes [F110 and long-term asset funds] where scheme does not meet the genuine diversity of ownership condition

51.—(1) This regulation applies if—

(a) a participant has a holding in a qualified investor scheme **[F111** or a long-term asset fund**]**, and

(b) the scheme has not met the genuine diversity of ownership condition in regulation **[F112** 9A**]** in relation to an accounting period.

(2) Section 212 of TCGA 1992 (annual deemed disposal of holdings of unit trusts etc.) does not apply to the participant in relation to that accounting period.

(3) Paragraph 4 of Schedule 10 to FA 1996 (company holdings in unit trusts and offshore funds) shall not apply to the participant in relation to that accounting period.**]**

Textual Amendments

F109 Reg. 51 substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **15**

F110 Words in reg. 51 heading inserted (9.12.2021) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **3(3)**

F111 Words in reg. 51(1)(a) inserted (9.12.2021) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2021 (S.I. 2021/1270), regs. 1, **3(4)**

F112 Word in reg. 51(1)(b) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **13**

Repayments of tax

F113 52. . . . . . .

Textual Amendments

F113 Reg. 52 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **6**

Companies carrying on general insurance business: treatment of certain amounts of tax as foreign tax

[F114]52A. . . . . . .

Textual Amendments

F114 Reg. 52A omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010 (S.I. 2010/1642), regs. 1(1), **7**

[[F115]Diversely owned AIFs and financial traders: treatment of shares and units

52B.—(1) This regulation and regulation 52C apply if a financial trader has held, or holds, shares or units in a diversely owned AIF.

(2) In computing the trading profits or losses of the financial trader for the relevant period, the following amounts must be brought into account—

(a) all distributions received by or credited to the financial trader in respect of such shares or units for the relevant period; and

(b) any amount required to be brought into account under regulation 52C.

(3) In this regulation and in regulation 52D(2) references to distributions are subject to section 130 of CTA 2009 (insurers receiving distributions etc).

(4) In this regulation and in regulations 52C and 52D—

"relevant period" means—

(a) in the case of a financial trader within the charge to corporation tax, an accounting period, and

(b) in the case of a financial trader within the charge to income tax, a period of account;

"financial trader" has the meaning given by regulation 52E.

Textual Amendments

F115 Regs. 52B-52E inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **14**

Financial traders: amounts to be brought into account in respect of shares or units held in diversely owned AIFs

52C.—(1) The only amounts that are to be brought into account in computing the trading profits or losses in respect of the shares or units in the diversely owned AIF for the relevant period are—

(a) amounts that are brought into account in accordance with Cases 1 to 4, and

(b) amounts within regulation 52B(2)(a).

This is subject to section 130 of CTA 2009 (insurers receiving distributions etc) and regulation 52D.

(2) Case 1 applies if the financial trader held the shares or units in a diversely owned AIF at the beginning of the relevant period and holds those shares or units throughout that period.

Where Case 1 applies, the amount to be brought into account is the difference between the market value of the shares or units at the end of the immediately preceding relevant period and the market value of those shares or units at the end of the relevant period.

(3) Case 2 applies if a financial trader acquired shares or units in a diversely owned AIF during the relevant period and retains those shares or units throughout the relevant period.

Where Case 2 applies, the amount to be brought into account is the difference between the market value of the shares or units at the end of the relevant period and the acquisition cost of those shares or units.

(4) Case 3 applies if the financial trader held shares or units in a diversely owned AIF at the beginning of the relevant period and disposes of those shares or units during that period.

Where Case 3 applies the amount to be brought into account is the difference between the market value of the shares or units at the end of the immediately preceding relevant period and the disposal value of the shares or units.

(5) Case 4 applies if the financial trader acquires shares or units in a diversely owned AIF during the relevant period and disposes of those shares or units during that period.

Where Case 4 applies the amount to be brought into account is the difference between the acquisition cost of the shares or units and the disposal value of those shares or units.

(6) In this regulation—

"acquisition cost" means the value of the consideration given for the acquisition of the shares or units;

"disposal value" means the value of the consideration received for the disposal of the shares or units;

"market value" means—

(a) in the case of shares or units in a diversely owned AIF where both the buying and selling prices of units are published regularly by the manager of the fund, an amount equal to the buying price (that is the lower price) so published on any particular date or, if none were published on that date, on the latest date before;

(b) in the case of shares or units in a diversely owned AIF where a single price is published regularly by the manager of the fund, the price so published on any particular date, or if none were published on that date, on the latest date before.

Textual Amendments

F115 Regs. 52B-52E inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **14**

Shares and units not within regulation 52C

52D.—(1) Regulation 52C does not apply in respect of any shares or units in a diversely owned AIF in relation to which—

(a) conditions A and B are both satisfied, or

(b) condition C is satisfied.

(2) Condition A is that the shares or units in the diversely owned AIF form part of the financial trader's stock in trade and all the profits and losses, including distributions, arising in relation to the shares or units in the diversely owned AIF are included in the computation of the financial trader's trading profits for the relevant period.

(3) Condition B is that the shares or units in the diversely owned AIF are accounted for under generally accepted accounting practice on the basis of fair value accounting.

(4) Condition C is that the shares or units in the diversely owned AIF are a relevant holding in respect of which the provisions of section 490 of CTA 2009 apply in relation to the financial trader.

(5) In paragraph (4) "relevant holding" means—

(a) any rights under a unit trust scheme;

(b) a material interest in an offshore fund; or

(c) any shares in an open-ended investment company.

Textual Amendments

F115 Regs. 52B-52E inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **14**

Meaning of financial trader

52E.—(1) In regulations 52B, 52C and 52D "financial trader" means a person who is carrying on a business which is—

(a) a banking business,

(b) an insurance business, or

(c) a business consisting wholly or in part of dealing in trading assets such that any profit on such assets would form part of the trading profits of that business.

This paragraph is subject to paragraphs (2) and (3).

(2) "An insurance business" in paragraph (1)(b) does not include life assurance business carried on by an insurance company and in the event that such a company carries on both life assurance business and any other insurance business that company will not be a financial trader in respect of the life assurance business.

(3) If—

(a) a financial trader, "A", directly or indirectly transfers trading assets to a diversely owned AIF under or as part of an arrangement which has an unallowable purpose, and

(b) a connected person, "B"—

(i) holds shares or units in that diversely owned AIF at the time of the transfer; or

(ii) directly or indirectly acquires shares or units in that diversely owned AIF at a later time,

B is treated as being a financial trader in relation to those shares or units.

(4) In paragraphs (1) and (3) "trading assets" means—

(a) stocks or shares;

(b) a relevant contract within regulation 14G;

(c) a loan relationship within regulation 14L;

(d) units in a collective investment scheme within regulation 14M;

(e) securities within regulation 14F;

(f) foreign currency; or

(g) a carbon emission trading product within regulation 14N,

a profit on the sale of which would form part of the trading profits of the financial trader.

(5) An arrangement includes any scheme, understanding or transaction of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.

(6) An arrangement has an unallowable purpose if the main purpose or one of the main purposes for either A or B being party to the arrangement is to obtain a tax advantage or an income tax advantage for any person.

(7) In paragraph (6)—

"tax advantage" has the meaning given by section of 840ZA of ICTA; and

"income tax advantage" has the meaning given by section 683 of ITA 2007.**]**

Textual Amendments

F115 Regs. 52B-52E inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **14**

CHAPTER 4

CHARGE TO TAX ON SUBSTANTIAL QIS HOLDINGS IN QUALIFIED INVESTOR SCHEMES

General

Charge to tax under this Chapter

[F116]53. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Meaning of "substantial QIS holding"

[F116]54. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Amount charged to tax under this Chapter

[F116]55. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Measuring dates and meaning of "chargeable measuring date"

[F116]56. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

How tax is charged under this Chapter: income tax

[F116]57. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

How tax is charged under this Chapter: corporation tax

[F116]58. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Further provisions

[F116]59. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

The first measuring date

The general rule

[F116]60. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Cases affected by the coming into force of these Regulations

[F116]61. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Cases involving the launch of qualified investor schemes

[F116]62. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Cases where a participant's holding becomes substantial

[F116]63. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Definition of the “first measuring date”

[F116]64. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Calculation to be made on the first measuring date

[F116]65. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Disposals of holdings

Reorganisations etc.

[F116]66. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Disposal of part of a substantial QIS holding

[F116]67. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

Disposal of the whole of a substantial QIS holding

[F116]68. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

No gain/no loss disposals

[F116]69. . . . . . .

Textual Amendments

F116 Regs. 53-69 omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **17(1)** (with regs. 30, 31)

[F117PART 4A

PROPERTY AIFS

Textual Amendments

F117 Pt. 4A inserted (6.4.2008) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2008 (S.I. 2008/705), regs. 1, **5**

CHAPTER 1

PRELIMINARY PROVISIONS

Property AIFs

69A.—(1) This Part enables an open-ended investment company which meets the conditions in regulations 69D to 69O—

(a) to benefit from the exemption from corporation tax in accordance with regulation 69Y(1), and

(b) to have liabilities to tax imposed on the company and on participants in accordance with Chapters 3, 4 and 5 of this Part.

(2) In these Regulations an open-ended investment company to which this Part applies may be referred to as a "Property AIF".

Structure of this Part

69B. The structure of this Part of these Regulations is as follows—

This Chapter contains preliminary provisions;

Chapter 2 deals with entry into and membership of the Property AIF regime;

Chapter 3 deals with the tax treatment of Property AIFs;

Chapter 4 deals with distributions made by Property AIFs;

Chapter 5 deals with the treatment of participants in Property AIFs;

Chapter 6 deals with compliance in relation to the Property AIF regime; and

Chapter 7 contains provisions relating to an open-ended investment company's leaving the Property AIF regime.

Key concepts

69C.—(1) In this Part "entry" means the time when this Part begins to apply to an open-ended investment company.

(2) In this Part "cessation" means the time when this Part ceases to apply to an open-ended investment company.

(3) In this Part, in relation to an open-ended investment company—

(a) "F (pre-entry)" means the open-ended investment company before this Part begins to apply to it,

(b) "F (tax-exempt)" means the open-ended investment company in so far as it carries on property investment business (within the meaning of regulation 69F) while this Part applies to it,

(c) "F (residual)" means the open-ended investment company in so far as it carries on business other than property investment business while this Part applies to it, and

(d) "F (post-cessation)" means the open-ended investment company after this Part has ceased to apply to it.

[

[F118](4) In this Part, a "dedicated feeder fund" in relation to a property AIF means a fund which—

(a) is a unit trust scheme;

(b) is dedicated to investment in the property AIF for which it is a feeder fund (in accordance with its prospectus); and

(c) holds at least 85% of its assets in the form of shares in that property AIF.**]**

Textual Amendments

F118 Reg. 69C(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/1783), regs. 1(1), **3**

CHAPTER 2

ENTRY INTO AND MEMBERSHIP OF THE PROPERTY AIF REGIME

Conditions of membership of the Property AIF regime

Conditions for this Part to apply to company

69D. In order for this Part to apply to an open-ended investment company in respect of an accounting period, the following conditions must be met—

(a) the property investment business condition (see regulation 69E);

(b) the genuine diversity of ownership condition (see regulation **[**[F119]9A**]**);

(c) the corporate ownership condition (see regulation 693K);

(d) the loan creditor condition (see regulation 694M);

(e) the balance of business conditions (see regulation 69N); and

(f) the notification condition (see regulation 69O).

Textual Amendments

F119 Word in reg. 69D(b) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **15**

Conditions for this Part to apply to a company where the company is also a qualified investor scheme

[F120]**69DA.** . . . . . .

Textual Amendments

F120 Reg. 69DA omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **16**

The property investment business condition

The property investment business condition

69E.—(1) The property investment business condition is that the open-ended investment company must meet conditions A and B throughout the accounting period.

(2) Condition A is that the company's instrument of incorporation and its prospectus [F121]... include a statement that the company's investment objectives are—

(a) to carry on property investment business, and

(b) to manage cash raised from investors for investment in the property investment business.

(3) Condition B is that the company must carry on property investment business.

[F122](4) . . . . . .

Textual Amendments

F121 Words in reg. 69E(2) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(2)**

F122 Reg. 69E(4) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(3)**

Meaning of "property investment business"

69F.—(1) In this Part "property investment business" means business consisting of any one or more of—

(a) property rental business (see regulation 69H);

(b) owning shares in UK-REITs; and

(c) owning shares or units in an entity **[**[F123]within section 528(4A)(j) of CTA 2010 (overseas equivalent to UK REIT)**]**.

(2) In these Regulations "UK-REIT" **[**[F124]has the meaning given in section 518(4) of CTA 2010**]**.

[F125](3) . . . . . .

[F125](4) . . . . . .

[F125](5) . . . . . .

[F125](6) . . . . . .

[F126](7) . . . . . .

(8) This regulation is subject to the further provisions in regulation 69G.

Textual Amendments

F123 Words in reg. 69F(1)(c) substituted (1.4.2014) by The Real Estate Investment Trust (Amendments to the Corporation Tax Act 2010 and Consequential Amendments) Regulations 2014 (S.I. 2014/518), regs. 1(1), **3(2)(a)** (with reg. 1(2)-(4))

F124 Words in reg. 69F(2) substituted (1.4.2014) by The Real Estate Investment Trust (Amendments to the Corporation Tax Act 2010 and Consequential Amendments) Regulations 2014 (S.I. 2014/518), regs. 1(1), **3(2)(b)** (with reg. 1(2)-(4))

F125 Reg. 69F(3)-(6) omitted (1.4.2014) by virtue of The Real Estate Investment Trust (Amendments to the Corporation Tax Act 2010 and Consequential Amendments) Regulations 2014 (S.I. 2014/518), regs. 1(1), **3(2)(c)** (with reg. 1(2)-(4))

F126 Reg. 69F(7) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011 (S.I. 2011/2192), regs. 1(1), **6**

Property investment business: further provisions

69G.—(1) If an open-ended investment company to which this Part applies receives a distribution from a UK-REIT—

(a) the distribution is income of F (tax-exempt) to the extent that the distribution represents business of C (tax-exempt) carried on by the UK-REIT, and

(b) the distribution is income of F (residual) to the extent that the distribution represents business other than business of C (tax-exempt) carried on by the UK-REIT.

(2) In paragraph (1) "C (tax-exempt)" shall be construed in accordance with Part 4 of the Finance Act 2006.

(3) If an open-ended investment company to which this Part applies receives a distribution from an entity within regulation 69F(1)(c), the distribution is income of F (tax-exempt) except to the extent that the distribution is identified, at the time at which it is made, as arising from any activity of the entity that is not property rental business.

(4) For the purposes of this Part an asset is involved in property investment business if—

(a) it is an estate, interest or right in or over land by the exploitation of which property rental business is conducted;

(b) it consists of shares owned by the open-ended investment company in a UK-REIT; or

(c) it consists of shares **[**[F127]or units**]** owned by the open-ended investment company in an entity within regulation 69F(1)(c).

Textual Amendments

F127 Words in reg. 69G(4)(c) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **19**

Meaning of "property rental business"

69H.—(1) In this Part "property rental business" means—

(a) property rental business within the meaning given by section 104 of FA 2006, and

(b) the relevant business of an intermediate holding vehicle (see regulation 69I).

(2) For the purposes of paragraph (1)(b) the relevant business of an intermediate holding vehicle is its property rental business within the meaning given by section 104 of FA 2006, but disregarding subsection (1)(a) of that section.

(3) For the purposes of this Part an asset is involved in property rental business if—

(a) it is an estate, interest or right in or over land by the exploitation of which property rental business is conducted, or

(b) it consists of shares owned by the open-ended investment company in an intermediate holding vehicle.

Meaning of "intermediate holding vehicle"

69I.—(1) For the purposes of regulation 69H, an entity is an "intermediate holding vehicle" in an accounting period if it meets conditions A to F throughout the accounting period.

(2) Condition A is that the vehicle is a company, trust or partnership.

(3) Condition B is that the vehicle is not a collective investment scheme.

(4) Condition C is that the vehicle is wholly owned by the open-ended investment company (the "parent") or another intermediate holding vehicle or series of intermediate holding vehicles wholly owned by the parent, unless and to the extent that local legislation or regulations relating to the intermediate holding vehicle holding the property specified in paragraph (5) requires a proportion of local ownership.

(5) Condition D is that the function of the intermediate holding vehicle is solely to enable the holding, by the parent, of estates, interests or rights in or over land outside the United Kingdom by the exploitation of which property rental business is conducted.

(6) Condition E is that the intermediate holding vehicle has its accounts consolidated with those of the parent.

(7) Condition F is that all property rental income of the intermediate holding vehicle (or the full proportion of that income representing the interest of the parent in the intermediate holding vehicle) must be reflected in the distribution accounts of the parent at the same time as that income is reflected in the accounts of the intermediate holding vehicle.

The genuine diversity of ownership condition

The genuine diversity of ownership condition

[F128]69J. . . . . . .

Textual Amendments

F128 Reg. 69J omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **17**

The corporate ownership condition

The corporate ownership condition

69K.—(1) The corporate ownership condition is that the open-ended investment company must meet conditions A to C and (if applicable) condition D at the time that this Part begins to apply to the company and throughout the accounting period.

This is subject to regulation 69L(1).

(2) Condition A is that no body corporate is beneficially entitled (directly or indirectly) to 10% or more of the net asset value of the fund.

(3) Condition A is treated as met if—

(a) the company has taken reasonable steps to prevent a body corporate from acquiring a holding of 10% or more of the net asset value of the fund,

(b) a body corporate has nevertheless acquired such a holding,

(c) immediately upon becoming aware of the situation, the company has taken steps to ensure that the holding is reduced below 10% of the net asset value of the fund, and

(d) the company has continued, with all reasonable speed, to take steps to ensure that the holding is so reduced.

(4) Condition B is that the company's instrument of incorporation and its prospectus include provisions under which any body corporate which becomes a **[**[F129]participant**]** in the company—

(a) must undertake not to acquire 10% or more of the share capital of the company, and

(b) must undertake, on becoming aware that it has acquired 10% or more of the share capital of the company, to reduce its holding of that share capital below 10%.

(5) Condition C is that the company's instrument of incorporation and its prospectus include provisions under which a body corporate acquiring shares in the company must give a certificate in accordance with paragraph (6) or (7).

(6) The certificate is a certificate that the body corporate acquiring shares holds the shares as beneficial owner.

(7) The certificate is a certificate that the body corporate acquiring shares holds some or all of those shares otherwise than as a beneficial owner, but that the body corporate—

(a) holds less than 10% of the share capital of the company on behalf of itself or any one other corporate beneficial owner, and

(b) has obtained the undertakings in the terms specified in sub-paragraphs (a) and (b) of paragraph (4) from every other body corporate on whose behalf it owns shares in the company otherwise than as a beneficial owner.

(8) Condition D is that, in a case in which the body corporate acquiring shares in the company gives a certificate in accordance with paragraph (7), the body corporate acquiring the shares has undertaken to disclose the following information to the manager of the company if the manager so requires—

(a) the names of any body corporate on whose behalf the body corporate owns shares in the company otherwise than as a beneficial owner, and

(b) the extent of the holding of that body corporate in the company.

Textual Amendments

F129 Word in reg. 69K(4) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **21**

The corporate ownership condition: further provisions

69L.—(1) The open-ended investment company meets conditions B and C of the corporate ownership condition if it provides in its instrument of incorporation and its prospectus that a body corporate is prohibited from acquiring shares in the open-ended investment company.

(2) The open-ended investment company meets conditions B and C of the corporate ownership condition if—

(a) it provides in its instrument of incorporation and its prospectus that a body corporate is prohibited from acquiring shares **[**[F130]as a participant**]** in the open-ended investment company,

(b) a body corporate ("BC") acquires shares in the open-ended investment company,

(c) BC does not hold those shares as beneficial owner, and

(d) BC gives a certificate in accordance with paragraph (3).

(3) The certificate is a certificate—

(a) that BC does not hold any of the shares in the open-ended investment company as beneficial owner, and

(b) that none of the beneficial owners of BC's shares in the open-ended investment company is a body corporate.

(4) Paragraph (5) applies if the trustees of a unit trust scheme—

(a) hold shares in the open-ended investment company, and

(b) are chargeable, in the United Kingdom, either to income tax or to corporation tax in their capacity as trustees of that unit trust scheme.

(5) For the purposes of regulation 69K **[**[F131]the unit trust scheme is treated**]** as the beneficial owners of the shares; and a person holding units in the unit trust shall not be treated as beneficially entitled (directly or indirectly) to 10% or more of the net asset value of the open-ended investment company's fund by virtue of holding the units.

(6) In this Part "body corporate" means—

(a) a body corporate incorporated under the laws of any part of the United Kingdom or any other territory, or

(b) an entity which is treated as a body corporate for tax purposes—

(i) in accordance with the law of a territory outside the United Kingdom with which relevant arrangements have been entered into, or

(ii) in accordance with an international agreement containing relevant arrangements.

(7) In paragraph (6) "relevant arrangements" means arrangements which—

(a) have been entered into with a view to affording relief from double taxation, and

(b) have effect by virtue of an Order in Council under section 788 of ICTA.

Textual Amendments

F130 Words in reg. 69L(2)(a) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **22(2)**

F131 Words in reg. 69L(5) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **22(3)**

The loan creditor condition

The loan creditor condition

69M.—(1) The loan creditor condition is that the open-ended investment company must meet conditions A to C throughout the accounting period in the case of any loan relationship to which the company is party as debtor.

(2) Condition A is that, in the case of a debtor relationship of the company, the person standing in the position of a creditor as respects the debt in question is not entitled to an amount by way of interest which depends to any extent on—

(a) the results of all or part of the open-ended investment company's business, or

(b) the value of any of the company's assets.

(3) For the purposes of condition A, a loan shall not be treated as dependent on the results of the company's business by reason only that the terms of the loan provide—

(a) for the interest to be reduced in the event of results improving, or

(b) for the interest to be increased in the event of results deteriorating.

(4) Condition B is that, in the case of a debtor relationship of the company, the person standing in the position of a creditor as respects the debt in question is not entitled to an amount by way of interest which exceeds a reasonable commercial return on the consideration lent.

(5) Condition C is that, in the case of a debtor relationship of the company, the person standing in the position of a creditor as respects the debt in question is entitled on repayment to an amount which—

(a) does not exceed the consideration lent, or

(b) is reasonably comparable with the amount generally repayable (in respect of an equal amount of consideration) under the terms of issue of securities listed on a recognised stock exchange.

(6) In this regulation "loan relationship" and "debtor relationship" shall be construed in accordance with Chapter 2 of Part 4 of FA 1996 (loan relationships).

The balance of business conditions

The balance of business conditions

69N.—(1) The balance of business conditions are that conditions A and B must be met.

(2) Condition A is that the net income of F (tax-exempt) for an accounting period (determined in accordance with regulation 69Z1) is—

(a) at least 40% of the open-ended investment company's net income (as defined in regulation 69Z) where this Part applies to a newly qualified company in its first accounting period, or

(b) at least 60% of the open-ended investment company's net income (as defined in regulation 69Z) where this Part applies to a company in an accounting period in any other circumstances.

(3) Condition B is that the value of the assets involved in property investment business is—

(a) at least 40% of the total value of the assets held by the open-ended investment company at the end of the accounting period where this Part applies to a newly qualified company in its first accounting period, or

(b) at least 60% of the total value of the assets held by the open-ended investment company at the end of the accounting period where this Part applies to a company in an accounting period in any other circumstances.

(4) For the purposes of condition B—

(a) assets must be valued in accordance with generally accepted accounting practice,

(b) where generally accepted accounting practice offers a choice of valuation between cost basis and fair value, fair value must be used, and

(c) no account shall be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically).

(5) In this Part a "newly qualified company" means a company—

(a) to which this Part applies immediately upon its authorisation, and

(b) which has not been an authorised investment fund before that authorisation.

The notification condition

The notification condition

69O.—(1) The notification condition is that conditions A and B must be met.

(2) Condition A is—

(a) that the manager of an existing open-ended investment company has given notice for this Part to apply to the company, or

(b) if it is proposed to incorporate an open-ended investment company, that the person expected to become the manager of the open-ended investment company on its incorporation (the "applicant") has given notice for this Part to apply to the company.

(3) Condition B is that the notice given under paragraph (2) has taken effect.

(4) If notice is given under paragraph (2)(a), the company must obtain any necessary shareholder and regulatory approvals to its instrument of incorporation and prospectus before giving the notice.

(5) If notice is given under paragraph (2)(b), the terms of the proposed company's instrument of incorporation must be such that the proposed company, on its incorporation, will be required to meet—

(a) the property investment business condition (see regulation 69E), and

(b) the genuine diversity of ownership condition (see regulation **[**[F132]9A**]**).

(6) In this Part—

the "applicant" means the person referred to in paragraph (2)(b),

an "existing company notice" means a notice given under paragraph (2)(a), and

a "future company notice" means a notice given under paragraph (2)(b).

Textual Amendments

F132 Word in reg. 69O(5)(b) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **18**

Form and timing of notice under regulation 69O

69P.—(1) A notice under regulation 69O must be given in writing to the Commissioners.

(2) An existing company notice must be given at least 28 days before the beginning of the specified period.

This is subject to the following paragraphs of this regulation.

(3) A future company notice must be given at least 42 days before the date of the expected incorporation and authorisation.

This is subject to the following paragraphs of this regulation.

(4) A notice under regulation 69O may be withdrawn or amended at any time before it takes effect—

(a) by the manager (in the case of an existing company notice), or

(b) by the applicant (in the case of a future company notice).

(5) If a notice under regulation 69O is amended before it is due to take effect, regulation 69O shall apply to the amended notice.

(6) But if HM Revenue and Customs give notice that they are satisfied that the amended notice is valid, the amended notice shall take effect as if given on the date of the original notice.

(7) An existing company notice may be given at any time before the beginning of the specified period if—

(a) HM Revenue and Customs have given clearance under regulation **[**[F133]9B**]**, and

(b) the manager of the open-ended investment company certifies that there have been no changes in substance between—

(i) the form in which the company's instrument of incorporation and its prospectus were considered by HM Revenue and Customs before giving the clearance, and

(ii) the form in which it is proposed that those documents will apply at the beginning of the specified period.

(8) A future company notice may be given at any time before the proposed company is authorised and incorporated if—

(a) HM Revenue and Customs have given clearance under regulation **[**[F134]9B**]**, and

(b) the applicant certifies that there have been no changes in substance between—

(i) the form in which the proposed company's instrument of incorporation and its prospectus were considered by HM Revenue and Customs before giving the clearance, and

(ii) the form in which it is proposed that those documents will apply at the time when the proposed company is authorised.

Textual Amendments

F133 Word in reg. 69P(7)(a) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **19(a)**

F134 Word in reg. 69P(8)(a) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **19(b)**

Contents of notice under regulation 69O

69Q.—(1) This regulation applies if notice is given under regulation 69O.

(2) An existing company notice must specify the accounting period from the beginning of which this Part is to apply to the company (the "specified accounting period").

(3) An existing company notice must be accompanied by—

(a) a statement by the manager of the open-ended investment company that the conditions specified **[**[F135]regulation 9A and**]** in regulations 69E to 69N are reasonably expected to be met in respect of the company throughout the specified accounting period;

(b) the following documents relating to the company—

(i) its instrument of incorporation, and

(ii) its prospectus;

(c) a copy of the application to the **[**[F136]appropriate regulator**]** for agreement to changes in the company's instrument of incorporation and its prospectus; and

(d) copies of any documents accompanying the application mentioned in sub-paragraph (c) to the extent that those documents do not fall within sub-paragraphs (a) and (b).

(4) A future company notice must specify that this Part will apply to the proposed company from the date of its incorporation and authorisation.

(5) A future company notice must be accompanied by—

(a) a statement by the applicant that the conditions specified in **[**[F137]regulation 9A and**]** regulations 69E to 69N are reasonably expected to be met in respect of the proposed company throughout its first accounting period;

(b) the following documents relating to the proposed company—

(i) its proposed instrument of incorporation, and

(ii) its [F138]... prospectus [F139]... ;

(c) a copy of the application to the **[**[F140]appropriate regulator**]** for approval of the proposed company as an open-ended investment company; and

(d) copies of any documents accompanying the application mentioned in sub-paragraph (c) to the extent that those documents do not fall within sub-paragraphs (a) and (b).

Textual Amendments

F135 Words in reg. 69Q(3)(a) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **20(a)**

F136 Words in reg. 69Q(3)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

F137 Words in reg. 69Q(5)(a) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **20(b)**

F138 Word in reg. 69Q(5)(b)(ii) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(4)(a)**

F139 Words in reg. 69Q(5)(b)(ii) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(4)(b)**

F140 Words in reg. 69Q(5)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

Procedural matters relating to the giving of notice for this Part to apply

Notice: further provisions: quashing notices

69R.—(1) This regulation applies if any of conditions A to C are met.

(2) Condition A is that an existing company notice is given, but the notice is not accompanied by the documents specified in regulation 69Q(3)(b).

(3) Condition B is that a future company notice is given, but the notice is not accompanied by the documents specified in regulation 69Q(5)(b).

(4) Condition C is that a person gives a notice under regulation 69O in circumstances where the documents supplied do not demonstrate that the open-ended investment company (or the proposed open-ended investment company) will meet all the conditions of membership of the Property AIF regime.

(5) HM Revenue and Customs may give a notice (a "quashing notice") quashing the notice given under regulation 69O—

(a) to the manager of the open-ended investment company if an existing company notice has been given, or

(b) to the applicant if a future company notice has been given.

Procedure relating to quashing notices

69S.—(1) HM Revenue and Customs must not give a quashing notice until—

(a) they have given a notice (a "preliminary notice") to the person giving the notice under regulation 69O specifying the reasons why the preliminary notice is given, and

(b) they have given the person giving the notice under regulation 69O a period of 28 days to rectify the matters specified in the preliminary notice.

Paragraph (1)(b) is subject to paragraphs (7) to (9).

(2) HM Revenue and Customs must give a preliminary notice within a period of 28 days beginning with the day on which they receive the notice given under regulation 69O.

(3) HM Revenue and Customs must—

(a) give a quashing notice, or

(b) give notice to the manager of the open-ended investment company or to the applicant (as the case may be) that they are satisfied that the matters specified in the preliminary notice have been rectified,

within a period of 28 days beginning on the day specified in paragraph (4).

(4) The day specified is whichever is the earlier to occur of—

(a) the day immediately following the expiry of the period specified in the preliminary notice, and

(b) the day on which HM Revenue and Customs receive notice from the manager of the open-ended investment company or from the applicant (as the case may be) that the manager or applicant thinks—

(i) that the matters specified in the preliminary notice have been rectified, or

(ii) that the original notice given under regulation 69O is valid.

(5) If HM Revenue and Customs give a preliminary notice, the open-ended investment company (or, as the case may be, the proposed open-ended investment company) in respect of which the notice is given may not enter the Property AIF regime until HM Revenue and Customs have notified the manager of the company (or, as the case may be, the applicant) that they are satisfied that the matters specified in the preliminary notice have been rectified.

(6) If HM Revenue and Customs give a quashing notice, and the person to whom the notice is given appeals, the open-ended investment company (or, as the case may be, the proposed open-ended investment company) in respect of which the notice is given may not enter the Property AIF regime until the appeal is determined.

(7) The period of 28 days mentioned in paragraph (1)(b) is replaced by the period referred to in paragraph (9) if, within that 28 day period, the conditions specified in paragraph (8) are met.

(8) The conditions are that—

(a) HM Revenue and Customs and the applicant are in agreement as to the changes needed to the notice or to the documents accompanying the notice (or to both),

(b) the applicant has given notice to HM Revenue and Customs stating that the changes referred to in sub-paragraph (a) will take a specified period (which is longer than 28 days) to effect, and

(c) HM Revenue and Customs have given notice to the applicant accepting the statement made in the notice given under sub-paragraph (b).

(9) The period is the specified period mentioned in paragraph (8)(b).

Appeal against quashing notice

69T.—(1) A person to whom a quashing notice is given may appeal [F141]....

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the quashing notice is given.

(3) On an appeal **[**[F142]that is notified to the tribunal, the tribunal**]** shall determine whether it was just and reasonable for HM Revenue and Customs to give the quashing notice.

(4) If the **[**[F143]tribunal allows**]** the appeal—

(a) **[**[F144]the tribunal may**]** direct that this Part shall apply to the open-ended investment company (or, as the case may be to the proposed open-ended investment company), and

(b) **[**[F144]the tribunal may**]** specify the date from which this Part shall so apply.

(5) The date mentioned in paragraph (4)(b)—

(a) must not be earlier than the beginning of the specified accounting period if an existing company notice has been given, and

(b) must not be earlier than the date of incorporation and authorisation if a future company notice has been given.

Textual Amendments

F141 Words in reg. 69T(1) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(2)**

F142 Words in reg. 69T(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(3)**

F143 Words in reg. 69T(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(4)(a)**

F144 Words in reg. 69T(4)(a)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(4)(b)**

Clearance applications

Clearance in relation to the genuine diversity of ownership condition

[[F145]**69U.** . . . . . .

Textual Amendments

F145 Reg. 69U omitted (1.9.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **21**

Consequences of entry

Effects of entry

69V.—(1) Property rental business of F (pre-entry) shall be treated for the purposes of corporation tax as ceasing at entry.

(2) Assets which immediately before entry are involved in property rental business of F (pre-entry) shall be treated for the purposes of corporation tax as being sold by F (pre-entry) immediately before entry and reacquired by F (tax-exempt) immediately after entry.

(3) For the purposes of corporation tax, on entry one accounting period of the open-ended investment company shall end and another shall begin.

(4) On entry a new distribution period of the open-ended investment company shall begin.

(5) The sale and reacquisition deemed under paragraph (2) shall not have effect for the purposes of tax in respect of chargeable gains.

(6) For the purposes of CAA 2001, the sale and reacquisition deemed under paragraph (2)—

(a) shall not give rise to allowances or charges, and

(b) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment).

(7) For the purposes of CAA 2001, anything done by or to F (pre-entry) before entry in relation to an asset which is deemed under paragraph (2) to be sold and reacquired shall be treated after entry as having been done by or to F (tax-exempt).

Duration

69W. Once this Part has begun to apply to an open-ended investment company it shall continue to apply unless and until it ceases to apply in accordance with Chapter 7 of this Part.

CHAPTER 3

THE TAX TREATMENT OF PROPERTY AIFS

Categories of business

Ring-fencing of tax-exempt business

69X.—(1) For the purposes of corporation tax, the business of F (tax-exempt) shall be treated as a separate business (distinct from—

(a) any business carried on by F (pre-entry),

(b) any business carried on by F (residual), and

(c) any business carried on by F (post-cessation)).

(2) For the purposes of corporation tax, F (tax-exempt) shall be treated as a separate company (distinct from—

(a) F (pre-entry),

(b) F (residual), and

(c) F (post-cessation)).

(3) In particular—

(a) a loss incurred by F (tax-exempt) may not be set off against the net income of F (residual),

(b) a loss incurred in respect of F (residual) may not be set off against the net income of F (tax exempt),

(c) a loss incurred in respect of F (pre-entry) may not be set off against the net income of F (tax-exempt) (but this regulation does not prevent a loss of that kind from being set off against profits of F (residual)),

(d) a loss incurred by F (tax-exempt) may not be set off against profits arising to F (post-cessation) (in respect of business of any kind), and

(e) receipts accruing after entry but relating to business of F (pre-entry) shall not be treated as receipts of F (tax-exempt).

(4) In paragraph (3) a reference to a loss includes a reference to a deficit, expense, charge or allowance.

(5) Section 392B of ICTA (ring-fencing of losses from overseas property business) shall not apply to business of F (tax-exempt).

(6) Paragraphs 5B and 5C of Schedule 28AA to ICTA (transfer pricing: exemption for small and medium enterprises) shall not apply to an open-ended investment company to which this Part applies (whether to F (tax-exempt) or to F (residual)).

Chargeability to tax

Chargeability to corporation tax

69Y.—(1) The net income of F (tax-exempt) (see regulation 69Z1) shall not be charged to corporation tax.

(2) The net income of F (residual) (see regulation 69Z3) shall be charged to corporation tax at the rate applicable for open-ended investment companies (see section 468A(1) of ICTA).

Meaning of "net income"

69Z.—(1) In this Part the "net income" of an open-ended investment company for an accounting period means, in the case of an open-ended investment company that prepares accounts in accordance with UK generally accepted accounting practice, the amount falling to be dealt with under the heading **[**[F146]net revenue/(expense) before taxation**]** in the company's statement of total return for the accounting period.

(2) In paragraph (1) "the company's statement of total return for the accounting period" is to be construed in accordance with regulation 12.

Textual Amendments

F146 Words in reg. 69Z(1) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **23**

Calculation of net income of F (tax-exempt)

69Z1.—(1) This regulation applies to determine the net income of F (tax-exempt) for the purposes of this Part.

(2) Section 21A of ICTA (calculation of profits of Schedule A business) shall apply to income arising from the business of F (tax-exempt).

(3) Paragraph 2(3) of section 15(1) of ICTA (Schedule A: disregard of credits and debits from loan relationships and derivative contracts) shall not apply in respect of—

(a) a loan relationship if or in so far as it relates to tax-exempt business,

(b) a hedging derivative contract if or in so far as it relates to tax-exempt business, or

(c) embedded derivatives if or in so far as the host contract is entered into for the purposes of tax-exempt business.

(4) For the purposes of paragraph (3)—

(a) a derivative contract is hedging in relation to a company if or in so far as it is acquired as a hedge of risk in relation to an asset by the exploitation of which tax-exempt business is conducted,

(b) a derivative contract is hedging in relation to a company if or in so far as it is acquired as a hedge of risk in relation to a liability incurred in connection with tax-exempt business,

(c) a designation of a contract as wholly or partly hedging for the purposes of a company's accounts shall be conclusive, and

(d) "embedded derivatives" and "host contract" shall be construed—

(i) in accordance with section 94A of FA 1996 in relation to loan contracts with embedded derivatives,

(ii) in accordance with paragraph 2A of Schedule 26 to FA 2002 in relation to non-financial contracts with embedded derivatives,

(iii) in accordance with paragraph 2B of Schedule 26 to FA 2002 in relation to hybrid derivatives.

(5) In paragraph (4)(a) the reference to an asset includes a reference to—

(a) the value of an asset, and

(b) profits attributable to it.

(6) Net income shall be computed without regard to items giving rise to credits or debits which would be within Schedule 26 to FA 2002 (derivative contracts) but for paragraph 4(2)(b) of that Schedule (exclusion of share-based and unit-trust-based contracts).

(7) Income and expenditure relating partly to tax-exempt business and partly to non-tax-exempt business shall be apportioned reasonably.

(8) Section 3(1) of CAA 2001 (claims for capital allowances) shall not apply; and any allowance which the company could claim under that section shall be made automatically and reflected in the calculation of net income.

Components of income arising to F (residual)

69Z2.—(1) For the purposes of this Part the income arising to F (residual) consists of—

(a) distributions qualifying for exemption under section 208 of ICTA, and

(b) income arising from the business of F (residual).

(2) Section 21A of ICTA (calculation of profits of Schedule A business) shall apply to income arising from the business of F (residual) if and to the extent that income arising from the business of F (residual) is chargeable to corporation tax under Schedule A.

Calculation of net income of F (residual)

69Z3. Use this regulation to determine the net income of F (residual) for the purposes of this Part.

First rule

Determine the amount of the income arising to F (residual).

Second rule

Deduct any amounts whose deduction is required or allowed under the Corporation Tax Acts (including any distributions qualifying for exemption under section 208 of ICTA).

In this Part the amount so found is called the "pre-distribution amount".

Third rule

Deduct the amount attributed to PAIF distributions (interest) under regulation 69Z14(b).

The result is the net income of F (residual).

Breaches of conditions

Breach of the genuine diversity of ownership condition

69Z4.—(1) This regulation applies if an open-ended investment company to which this Part applies is in breach of the genuine diversity of ownership condition.

(2) Within 28 days of becoming aware of the breach, the company must provide the following information to the Commissioners—

(a) the date on which the condition first ceased to be met;

(b) the date on which the company became aware of the breach;

(c) details of the condition that was breached;

(d) the nature of the breach;

(e) the steps the company proposes to take to rectify the breach; and

(f) the date by which the company proposes to rectify the breach.

(3) The date referred to in paragraph (2)(f) must be the earliest date by which the objective of complying with the genuine diversity of ownership condition may reasonably be achieved.

(4) The Commissioners may give a termination notice to the company if—

(a) the steps that the company proposes to take will not rectify the breach, or

(b) the date by which the company proposes to rectify the breach is not the earliest date by which the objective of remedying the genuine diversity ownership condition may reasonably be achieved.

(5) If there are three different breaches of the genuine diversity of ownership condition in three different accounting periods in a period of ten years beginning with the first day of the accounting period in which the company becomes aware of the first of those breaches, the Commissioners may give a termination notice to the company.

Breach of the corporate ownership condition

69Z5.—(1) This regulation applies if an open-ended investment company to which this Part applies is in breach of the corporate ownership condition.

(2) If there is a breach which is caused by the action of a shareholder in the company and the company has not taken reasonable steps to prevent the breach (so that, accordingly, there is a charge to corporation tax under regulation 69Z12) (a "specified breach"), this Part shall continue to apply to the company despite the breach (but see paragraph (3) and regulation 69Z8).

(3) If there are three specified breaches in a period of ten years beginning with the first day of the accounting period in which the first specified breach occurs, the Commissioners may give a termination notice to the company.

Breach of the loan creditor condition

69Z6.—(1) This regulation applies if an open-ended investment company to which this Part applies is in breach of the loan creditor condition.

(2) If the company is inadvertently in breach of the loan creditor condition but rectifies the breach within a period of 28 days beginning with the day on which the company first becomes aware of the breach, this Part shall continue to apply to the company despite the breach (but see paragraphs (5) and (6) and regulation 69Z8).

(3) If the company is inadvertently in breach of the loan creditor condition but does not rectify the breach within a period of 28 days beginning with the day on which the company first becomes aware of the breach, the Commissioners may give a termination notice to the company.

(4) If the company is intentionally or negligently in breach of the loan creditor condition, the Commissioners may give a termination notice to the company.

(5) If the company is in breach of the same condition specified in paragraphs (2) to (5) of regulation 69M in two different accounting periods in a period of ten years beginning with the first day of the accounting period in which the company becomes aware of the first of those breaches, the Commissioners may give a termination notice to the company.

(6) If the company is in breach of the conditions specified in paragraphs (2) to (5) of regulation 69M in three different accounting periods in a period of ten years beginning with the first day of the accounting period in which the company becomes aware of the first of those breaches, the Commissioners may give a termination notice to the company.

Breach of balance of business conditions

69Z7.—(1) Paragraph (2) applies if a newly qualified company—

(a) is in breach of condition A set out in regulation 69N(2)(a) in its first accounting period, or

(b) is in breach of condition B set out in regulation 69N(3)(a) at the end of its first accounting period.

(2) This Part shall cease to apply to the company at the end of its first accounting period and regulation 69Z41 shall apply.

(3) Paragraphs (4) to (7) apply if an open-ended-investment company to which this Part applies—

(a) is in breach of condition A set out in regulation 69N(2)(b) in an accounting period, or

(b) is in breach of condition B set out in regulation 69N(3)(b) at the end of an accounting period.

(4) If the conditions specified in paragraph (6) are met, this Part shall continue to apply to the company despite the breach (but see paragraph (7) and regulation 69Z8).

(5) If the conditions specified in paragraph (6) are not met, the Commissioners may give a termination notice to the company.

(6) The conditions are that—

(a) property investment business is at least 50% of the company's net income in the accounting period,

(b) the value of the assets involved in property investment business is at least 50% of the total value of assets held by the company at the end of the accounting period.

(7) If this regulation applies to a company in three different accounting periods in a period of ten years beginning with the first day of the accounting period in which the company becomes aware of the first of those breaches, the Commissioners may give a termination notice to the company.

Multiple breaches of separate conditions

69Z8.—(1) This regulation applies in relation to an open-ended investment company to which this Part applies if—

(a) there has been a breach of at least two of the conditions in **[**[F147]regulation 9A or**]** regulations 69E to 69N,

(b) at least one of the conditions breached is contained in a different regulation from that containing another of those breached, and

(c) there have been five breaches in a period of ten years beginning with the first day of the accounting period in which the first breach occurs.

(2) The Commissioners may give a termination notice to the company.

Textual Amendments

F147 Words in reg. 69Z8(1)(a) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **22**

Further provisions

Profit/financing costs in the case of a Property AIF that is a qualified investor scheme

69Z9.—(1) This regulation applies if conditions A and B are met.

(2) Condition A is that an open-ended investment company to which this Part applies is a qualified investor scheme.

(3) Condition B is that the result of the following calculation is less than 1.25 in respect of an accounting period—
Income / Financing Costs

IncomeFinancing Costs

(4) In paragraph (3)—

"Income" means the amount of the net income of F (tax-exempt) arising in the accounting period (before the offset of capital allowances, of losses from a previous accounting period, and of amounts taken into account under regulation 69Z1(3)), and

"Financing Costs" means the amount of the financing costs incurred in that period in respect of the business of F (tax-exempt).

(5) An amount shall be charged to corporation tax.

(6) That amount is determined as follows—

Step One

Determine the financing costs which, given the actual income, would produce the result of 1.25 in the calculation specified in paragraph (3) (the "theoretical financing costs").

Step Two

Determine the amount by which the actual financing costs exceed the theoretical financing costs ("the excess financing cost").

Step Three

Divide the main rate at which corporation tax is charged for the accounting period by the rate at which corporation tax is charged on an open-ended investment company for the accounting period (see section 468A(1) of ICTA) to determine the multiplier.

Step Four

Multiply the excess financing cost by the multiplier.

The result is the amount charged to tax.

(7) For the purposes of paragraphs (3) and (4) "financing costs" are the costs of debt finance; and in calculating the costs of debt finance in respect of an accounting period the matters to be taken into account include—

(a) costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of FA 1996 (loan relationships), other than debits in respect of exchange losses from such relationships (within the meaning of section 103(1A) and (1B) of that Act),

(b) any exchange gain or loss from a debtor relationship within the meaning of that Chapter in relation to debt finance,

(c) any credit or debit falling to be brought into account under Schedule 26 to FA 2002 (derivative contracts) in relation to debt finance,

(d) the financing cost implicit in a payment under a finance lease, and

(e) any other costs arising from what would be considered, in accordance with generally accepted accounting practice, to be a financing transaction.

(8) No loss, deficit, expense or allowance may be set off against the amount charged to tax by paragraph (5).

Cancellation of tax advantage

69Z10.—(1) This regulation applies if a company to which this Part applies has tried to obtain a tax advantage for itself or another person.

(2) The Commissioners may give a notice to the company specifying the tax advantage.

(3) If the Commissioners give a notice to the company under paragraph (2) a tax advantage obtained by the company shall be counteracted, in accordance with the notice, by an adjustment by way of—

(a) an assessment;

(b) the cancellation of a right of repayment;

(c) a requirement to return a repayment already made; or

(d) the computation or recomputation of profits or gains, or liability to tax, on a basis specified by the Commissioners in the notice.

(4) The Commissioners may (in addition to the adjustment under paragraph (3)) assess the company to such additional amount of income tax under Case VI of Schedule D as they think is equivalent to the value of the tax advantage.

(5) For the purposes of this regulation "tax advantage" has the meaning given by section 709 of ICTA.

(6) But a company does not obtain a tax advantage by reason only of this Part applying to it, unless it does anything (whether before or during the application of this Part) which is wholly or principally designed to create or inflate or apply a loss, deduction or expense (whether or not suffered or incurred by the company).

Appeal against notice under regulation 69Z10

69Z11.—(1) If a notice is given to a company under regulation 69Z10, the company may appeal [F148]....

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the notice under regulation 69Z10 is given.

(3) On an appeal **[**[F149]that is notified to the tribunal, the tribunal**]** may—

(a) affirm, vary or cancel the notice, and

(b) affirm, vary or quash an assessment made under regulation 69Z10(4).

Textual Amendments

F148 Words in reg. 69Z11(1) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 157(2)**

F149 Words in reg. 69Z11(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 157(3)**

Distribution to holder of excessive rights: charge to tax

69Z12.—(1) This regulation applies if an open-ended investment company to which this Part applies—

(a) makes a distribution to, or in respect of, a holder of excessive rights (see regulation 69Z13), and

(b) the company has not taken reasonable steps to prevent the possibility of such a distribution being made.

(2) The company is treated as having received an amount of income calculated in accordance with paragraph (3).

(3) The amount of the income is determined by the formula—

I x P

(4) In paragraph (3)—

I is the net income of F (tax-exempt) distributable in accordance with regulation 69Z14(a);

P is the percentage of the rights to the net asset value of the company held by, or on behalf of, the holder of excessive rights.

(5) The amount determined in accordance with paragraph (3) shall be charged to corporation tax as if it were income of F (residual) chargeable under Case VI of Schedule D arising in the accounting period in which the distribution mentioned in paragraph (1) was made by the company.

(6) No loss, deficit, expense or allowance may be set off against the amount charged to tax by paragraph (5).

Meaning of "holder of excessive rights"

69Z13.—(1) In this Part a "holder of excessive rights" means a body corporate which—

(a) is a participant in an open-ended investment company to which this Part applies, and

(b) is beneficially entitled to shares representing rights to 10% or more of the net asset value of the company.

(2) Paragraphs (4) and (5) of regulation 69L apply for the purposes of paragraph (1) as they apply for the purposes of regulation 69K.

(3) In this Part an "excessive holding" means the holding of a holder of excessive rights.

CHAPTER 4

DISTRIBUTIONS MADE BY PROPERTY AIFS

[[F150]Allocation of income]

69Z14. [[F151]The total amount available for income allocation in an open-ended investment company to which this Part applies shall be attributed]—

(a) first, to property income distributions up to the amount of the net income of F (tax-exempt) (determined in accordance with regulation 69Z1),

(b) secondly, to PAIF distributions (interest) up to the pre-distribution amount (determined in accordance with regulation 69Z3), and

(c) finally, to PAIF distributions (dividends).

Textual Amendments

F150 Reg. 69Z14 heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **16(2)** (with reg. 24)

F151 Words in reg. 69Z14 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **16(3)** (with reg. 24)

Property income distributions

69Z15.—(1) This regulation applies if—

(a) an open-ended investment company to which this Part applies makes a distribution, and

(b) the amount distributed includes sums attributed to property income distributions.

(2) The Tax Acts shall have effect as if the sums were payments made on the distribution date by the company to the participants in proportion to their rights.

(3) Regulation 69Z18 (property income distributions: liability to tax of participants) explains how a property income distribution received by a participant is treated.

(4) In these Regulations a "property income distribution" means a sum attributed to property income distributions which is distributed (including a payment made to a participant who is not chargeable to income tax or corporation tax).

PAIF distributions (interest)

69Z16.—(1) This regulation applies if—

(a) an open-ended investment company to which this Part applies makes a distribution, and

(b) the amount distributed includes sums attributed to PAIF distributions (interest).

(2) The Tax Acts shall have effect as if the sums were payments of yearly interest made on the distribution date by the company to the participants in proportion to their rights.

[
[F152](2A) For the purposes of Part 10 (Corporate Interest Restriction) of TIOPA 2010, a PAIF distribution (interest) is treated as not being a tax-interest expense amount of the company.**]**

(3) In this Part a "PAIF distribution (interest)" means a sum attributed to PAIF distributions (interest) which is distributed (including a payment made to a participant who is not chargeable to income tax).

Textual Amendments

F152 Reg. 69Z16(2A) inserted (29.12.2017) by The Corporate Interest Restriction (Consequential Amendments) Regulations 2017 (S.I. 2017/1227), regs. 1, **2(3)**

PAIF distributions (dividends)

69Z17.—(1) This regulation applies if—

(a) an open-ended investment company to which this Part applies makes a distribution, and

(b) the amount distributed includes sums attributed to PAIF distributions (dividends).

(2) The Tax Acts shall have effect as if the sums were dividends on shares paid on the distribution date by the company to the participants in proportion to their rights.

(3) In this Part a "PAIF distribution (dividends)" means a sum attributed to PAIF distributions (dividends) which is distributed (including a dividend treated as paid to a participant who is not chargeable to corporation tax).

CHAPTER 5

THE TREATMENT OF PARTICIPANTS IN PROPERTY AIFS

Treatment of distributions: liability to tax of participants

Property income distributions: liability to tax of participants

69Z18.—(1) A property income distribution received by a participant in an open-ended investment company to which this Part applies shall be treated—

(a) in the case of a participant within the charge to corporation tax, as profits of a Schedule A business, and

(b) in the case of a participant within the charge to income tax, as the profits of a UK property business (within the meaning of section 264 of ITTOIA 2005).

(2) A distribution received by a participant who is not resident in the United Kingdom—

(a) if the participant is a company within the charge to corporation tax, shall be chargeable to tax as profits of a Schedule A business,

(b) if the participant is a person other than a company within the charge to corporation tax, shall be chargeable to tax as profits of a UK property business (within the meaning of section 264 of ITTOIA 2005), and

(c) in either case shall not be chargeable to tax by virtue of sections 971 and 972 of ITA 2007 (non-resident landlords).

(3) Paragraph (1) shall not apply in relation to a participant if and in so far as the participant—

(a) is a dealer in respect of distributions (within the meaning of section 95 of ICTA),

(b) is a dealer in securities who is charged to tax under Part 2 of ITTOIA 2005 (trading income) in respect of distributions made by companies,

(c) is an individual member of Lloyd's (within the meaning given by section 184(1) of FA 1993) and the distribution is made in respect of assets forming part of—

(i) a premium trust fund of his (within the meaning given by section 174 of FA 1993), or

(ii) an ancillary trust fund of his (within the meaning given by section 176 of FA 1993), or

(d) is a corporate member of Lloyd's (within the meaning given by section 230(1) of FA 1994) and the distribution is made in respect of assets forming part of—

(i) a premium trust fund of his (within the meaning given by section 222 of FA 1994), or

(ii) an ancillary trust fund of his (within the meaning given by section 223 of FA 1994).

(4) Section 114(1)(a) of ICTA (partnerships with companies as members) does not disapply paragraph (1).

(5) Sections 231 of ICTA and 397 of ITTOIA 2005 (tax credits in respect of qualifying distributions) shall not apply to property income distributions.

(6) Property income distributions received by one participant acting in one capacity shall be treated, for the purposes of paragraph (1), as the profits of a single business which is separate from—

(a) any other Schedule A business carried on by the participant,

(b) any other UK property business (within the meaning of section 264 of ITTOIA 2005) carried on by the participant,

(c) any overseas property business (within the meaning of section 70A(4) of ICTA) carried on by the participant, and

(d) any overseas property business (within the meaning of section 265 of ITTOIA 2005) carried on by the participant.

(7) In the case of a participant which is a partnership, paragraph (6) applies to receipts by a partner of a share of any distribution as it applies to receipts by a participant.

PAIF distributions (interest): liability to tax of participants

69Z19.—[[F153](1) A PAIF distribution (interest) received by a participant in an open-ended investment company to which this Part applies shall be treated—

(a) in the case of a participant within the charge to corporation tax, as if it were interest arising from a loan relationship; and

(b) in the case of a participant within the charge to income tax, as if it were a payment of yearly interest falling within Chapter 2 of Part 4 of ITTOIA 2005.**]**

(2) Sections 231 of ICTA and 397 of ITTOIA 2005 (tax credits in respect of qualifying distributions) shall not apply to PAIF distributions (interest).

Textual Amendments

F153 Reg. 69Z19(1) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **24**

Property distributions (dividends): liability to tax of participants

69Z20.—(1) A PAIF distribution (dividends) received by a participant in an open-ended investment company to which this Part applies shall be treated as if it were a dividend on shares.

(2) If a PAIF distribution (dividends) is made for a distribution period to a participant chargeable to corporation tax, regulations 48 to 52A shall not apply to the distribution.

Distributions made after cessation

69Z21.—(1) This regulation applies if an open-ended investment company—

(a) is a company to which this Part applies in respect of an accounting period,

(b) makes a distribution in respect of that accounting period, and

(c) the distribution is made after cessation.

(2) Regulations 69Z18 to 69Z20 apply in relation to the distribution.

Deduction of tax from distributions

Deduction of tax from property income distributions

69Z22.—(1) On making a property income distribution, an open-ended investment company to which this Part applies must deduct a sum representing income tax at the basic rate in force for the tax year in which the distribution date falls.

(2) A property income distribution shall be treated as having been received by the participant after deduction of income tax at the basic rate for the year of assessment in which the distribution date falls, from a corresponding gross amount.

(3) The sum is accordingly taken into account under sections 59B and 59D of TMA 1970 (see also paragraph 8 of Schedule 18 to the Finance Act 1998) in determining the income tax or corporation tax payable by, or repayable to, the participant.

(4) This regulation is subject to regulation 69Z24 (distribution payments to be made without deduction of tax).

Deduction of tax from PAIF distributions (interest)

69Z23.—(1) On making a PAIF distribution (interest), an open-ended investment company to which this Part applies must deduct a sum representing income tax at the **[**[F154]basic rate**]** in force for the tax year in which the PAIF distribution (interest) is made.

(2) Accordingly, the sum is one to which section 874 of ITA 2007 applies.

[F155](3) . . . . . .

(4) This regulation is subject to regulation 69Z24 (distribution payments to be made without deduction of tax).

Textual Amendments

F154 Words in reg. 69Z23(1) substituted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **25(a)**

F155 Reg. 69Z23(3) omitted (1.1.2009) by virtue of The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **25(b)**

Distribution payments to be made without deduction of tax

69Z24.—(1) **[**[F156]Subject to paragraphs (3A) and (3B),**]** on making a distribution, an open-ended investment company to which this Part applies must not deduct any sum representing income tax if the company reasonably believes that conditions A and B are met.

(2) Condition A is that if the distribution were made by a UK-REIT out of the profits of C (tax-exempt), the distribution would be required to be made without any deduction representing income tax.

(3) Condition B is that if the distribution were a distribution of yearly interest, the distribution would be required to be made without any deduction representing income tax.

[

[F157](3A) But neither condition A nor condition B is met, in relation to a unit trust scheme, where—

(a) the distribution is made to the trustee of the scheme;

(b) the trustee is chargeable to corporation tax or income tax on the distribution in the United Kingdom; and

(c) the trustee has made a request in writing to the Property AIF that the Property AIF should deduct tax from the distribution.

(3B) The Property AIF must not specify that the trustee of any unit trust scheme seeking to acquire shares in the Property AIF must have tax deducted from any distribution.**]**

(4) If at the time it makes a distribution the company reasonably believes that conditions A and B are met, but in fact those conditions are not both met, these Regulations shall apply to the distribution as if it were never one which could be made without deduction of tax.

(5) In paragraph (2) "profits of C (tax-exempt)" shall be construed in accordance with Part 4 of FA 2006.

Textual Amendments

F156 Words in reg. 69Z24(1) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **26(a)**

F157 Reg. 69Z24(3A)(3B) inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **26(b)**

[F158 Manufactured dividends representing property income distributions

69Z24A.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of property income distributions to which regulation 69Z15 applies.

(2) The amount of the manufactured dividend falling within paragraph (1) is referred to in this regulation as "the manufactured PID amount".

(3) The recipient of the manufactured PID amount is treated as having received a distribution to which regulation 69Z18 applies.

(4) In relation to the dividend manufacturer—

(a) if the dividend manufacturer is a company and the manufactured dividend is paid in the course of a trade carried on in the United Kingdom, the manufactured PID amount shall be treated as an expense of the trade;

(b) if the manufactured dividend is paid in connection with investment business, the manufactured PID amount shall be treated for the purposes of section 75 of ICTA as expenses of management; and

(c) in the case of a company carrying on life assurance business, so much of the manufactured PID amount as would be referable by virtue of section 432A of ICTA to basic life assurance and general annuity business if it were received by the company shall be treated for the purposes of section 76 of ICTA as if it were an expense payable falling to be brought into account at step 3 of section 76(7).

(5) Regulations 69Z22, 69Z24 and 69Z29 to 69Z35 apply to the dividend manufacturer as if—

(a) the dividend manufacturer were an open-ended investment company to which this Part applies; and

(b) the manufactured PID amount were a distribution to which those regulations apply.**]**

Textual Amendments

F158 Regs. 69Z24A-69Z24D inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **27**

[[F158]Manufactured dividends representing PAIF distributions (interest)

69Z24B.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of a PAIF distribution (interest) to which regulation 69Z16 applies.

(2) The amount of the manufactured dividend to which this regulation applies is referred to in this regulation as the "manufactured PAIF interest amount".

(3) If the recipient of the manufactured dividend is a company within the charge to corporation tax it is treated as having received, in relation to the manufactured PAIF interest amount, an amount to which section 97 of FA 1996 applies.

(4) If the recipient of the manufactured dividend is within the charge to income tax it is treated as having received, in relation to the manufactured PAIF interest amount, an amount to which regulation 69Z19 applies.

(5) If the dividend manufacturer is a company within the charge to corporation tax, section 97 of FA 1996 is treated as applying to the manufactured PAIF interest amount.

(6) Regulations 69Z23, 69Z24 and 69Z29 to 69Z35 apply to the dividend manufacturer in relation to the manufactured PAIF interest amount as if the dividend manufacturer were an open-ended investment company to which this Part applies.**]**

Textual Amendments

F158 Regs. 69Z24A-69Z24D inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **27**

[[F158]Manufactured dividends – PAIF distributions (dividends)

69Z24C.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of a PAIF distribution (dividends) to which regulation 69Z17 applies.

(2) The recipient of the manufactured dividend is treated as having received, to that extent, an amount to which regulation 69Z20 applies.

(3) If the dividend manufacturer is a company, paragraph 2(2)(b) of Schedule 23A to ICTA has effect in relation to the amount of the manufactured dividend to which paragraph (1) applies.**]**

Textual Amendments

F158 Regs. 69Z24A-69Z24D inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **27**

[[F158]Interpretation

69Z24D. In regulations 69Z24A to 69Z24C, "manufactured dividend" and "dividend manufacturer" have the meanings given by Schedule 23A to ICTA .**]**

Textual Amendments

F158 Regs. 69Z24A-69Z24D inserted (1.1.2009) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **27**

[F159 Conversions and exchanges

Textual Amendments

F159 Regs. 69Z24E-69Z24H and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/1783), regs. 1(1), **4**

Conversion to property AIF

69Z24E.—(1) This regulation applies if—

(a) a fund ("the pre-conversion fund") which is not a property AIF becomes, or intends to become, a property AIF,

(b) the unit-holders in the pre-conversion fund dispose of the units which they hold in that fund ("the original units") and, as part of an arrangement, acquire units of the same, or substantially the same, value as the original units in the fund which is, or is intended to become, the dedicated feeder fund for the property AIF, and

(c) the further requirement of regulation 69Z24G is met.

(2) Sections 127 to 131 of TCGA apply in relation to the disposal and subsequent acquisition of units specified in this regulation.

(3) A fund converting to a property AIF in accordance with this regulation shall be treated as meeting condition A in regulation 69K (the corporate ownership condition) where the conditions in paragraph (4) are met, notwithstanding that the holding of a body corporate in the property AIF may exceed the percentage mentioned in regulation 69K(3)(a) during the relevant period.

(4) The conditions in this paragraph are that—

(a) during the relevant period, no distributions are declared or made,

(b) any distribution which was declared before the beginning of the relevant period is paid before the beginning of that period, and

(c) the units held by the body corporate in the property AIF are exchanged for units in the dedicated feeder fund as soon as reasonably practicable.

(5) In this regulation, "the relevant period" is the period beginning with the time at which the fund becomes a property AIF and ending with the time at which the units in the dedicated feeder fund for the property AIF are issued to a participant which is a body corporate.

Exchange of units

69Z24F.—(1) This regulation applies if—

(a) there is—

(i) an exchange of units in a dedicated feeder fund for shares in the property AIF for which that fund is the dedicated feeder fund, or

(ii) an exchange of shares in a property AIF for units in the dedicated feeder fund for that property AIF, and

(b) the further requirement of regulation 69Z24G is met.

(2) The units to be exchanged in accordance with either paragraph (1)(a) or (b) must represent the same, or substantially the same, share of the net asset value of the property AIF as the units which are held immediately after the exchange.

(3) Sections 127 to 131 of TCGA 1992 apply in relation to a disposal or acquisition of units or shares specified in paragraph (1).

Further requirement

69Z24G. The further requirement is that if a transaction involves the acquisition of units in a dedicated feeder fund, that it is undertaken with the agreement of the manager of the property AIF.

Application of section 137 of TCGA

69Z24H. Section 137 of TCGA (restriction on application of tax treatment) applies to any transaction specified in regulations 69Z24E or 69Z24F in the circumstances mentioned in that section.**]**

CHAPTER 6

COMPLIANCE IN RELATION TO THE PROPERTY AIF REGIME

Company tax return

Documents to be included with company tax return

69Z25.—(1) An open-ended investment company to which this Part applies must include documents A and B in its company tax return.

(2) Document A is a calculation of the net income of F(tax-exempt) and F(residual) in accordance with regulations 69Z1 to 69Z3.

(3) Document B is a reconciliation between—

(a) the net income of the company (see regulation 69Z), and

(b) **[**[F160]the total amount available for income allocation**]** as attributed in accordance with regulation 69Z14.

(4) In paragraph (1) "company tax return" means the return required to be delivered pursuant to a notice under paragraph 3 of Schedule 18 to the Finance Act 1998, as read with paragraph 4 of that Schedule.

(5) Section 98 of TMA 1970 applies to any failure to furnish any information, give any certificate or produce any document or record in accordance with any provision of this Chapter as it applies to any such failure in the case of any provision specified in the second column of the Table below that section.

Textual Amendments

F160 Words in reg. 69Z25(3)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **17** (with reg. 24)

Breaches of conditions in Chapter 2

Information to be provided by company to which this Part applies

69Z26.—(1) This regulation applies if an open-ended investment company to which this Part applies—

(a) does not meet a condition set out in Chapter 2 of this Part (entry into and membership of the Property AIF regime), and

(b) becomes aware that it does not meet the condition.

(2) As soon as reasonably practicable, the company must provide the following information to the Commissioners—

(a) the date on which the condition first ceased to be met and the date (if any) on which the condition was satisfied again;

(b) details of the condition that was breached;

(c) the nature of the breach; and

(d) what (if anything) the company has done to prevent the breach recurring.

(3) This regulation does not apply if the breach of condition is one to which regulation 69Z27 applies.

Holders of excessive rights

Information relating to holders of excessive rights

69Z27.—(1) This regulation applies if an open-ended investment company to which this Part applies becomes aware that it has made a distribution to, or in respect of, a holder of excessive rights.

(2) As soon as reasonably practicable, the company must provide the following information to the Commissioners—

(a) the name of every person to whom, or in respect of whom, the distribution specified in paragraph (1) was made;

(b) the address of every such person;

(c) the amount or value of the distribution;

(d) particulars of those persons' interests in the company, including details of the percentage of rights to the net asset value of the company represented by the shares held by those persons;

(e) the steps the company took to prevent the acquisition of any excessive holding; and

(f) the steps the company has taken, or is taking, to ensure that there is no longer any excessive holding in the company.

Information about possible breaches of conditions of membership of Property AIF regime

Information to be provided to officers of Revenue and Customs

69Z28.—(1) This regulation applies if an officer of Revenue and Customs thinks that an open-ended investment company to which this Part applies—

(a) does not meet, or may not meet, a condition specified in Chapter 2 of this Part, or

(b) has not rectified a breach of such a condition.

(2) The officer may serve a notice on the manager of the company.

(3) The notice may require the manager to provide any of the information specified in regulation 69Z26(2) or, as the case may be, regulation 69Z27(2).

(4) The manager must comply with the notice within a period of 28 days beginning with the day on which the notice is served.

Accounting for tax deducted from property income distributions

Payments in an accounting period

69Z29.—(1) This regulation applies if—

(a) an open-ended investment company to which this Part applies makes a distribution in an accounting period of the company, and

(b) the distribution includes sums attributed to property income distributions or to PAIF distributions (interest) (or to both) (referred to in this Chapter as a "relevant distribution").

(2) The company must deliver a return to an officer of Revenue and Customs for each return period—

(a) which falls within the accounting period, and

(b) in which the company makes a relevant distribution.

(3) The return periods are—

(a) the quarters ending on 31st March, 30th June, 30th September and 31st December (the "quarter days"); and

(b) any shorter period which—

(i) starts on the first day of an accounting period and ends with the first or only quarter day in that accounting period;

(ii) begins immediately after the last or only quarter day in that accounting period and ends on the last day of that accounting period; or

(iii) is an accounting period which starts and ends within a quarter.

(4) The company must deliver the return during a period of 14 days beginning with the day immediately following the end of the return period.

(5) The return must show the amount of—

(a) any relevant distributions made by the company in the return period, and

(b) the tax (if any) payable by the company in respect of those payments.

(6) The company must deliver, with the return for the return period which ends on the last day of an accounting period, a reconciliation statement showing, in relation to any distribution made during the accounting period, the amounts (if any) which are attributable to each of paragraphs (a) to (c) of regulation 69Z14 (attribution of distributions).

Collection and payment of tax

69Z30.—(1) Tax in respect of a relevant distribution is due at the time by which the return on which the distribution must be included is required to be delivered.

(2) The tax due is equal to the sum which the company is required to deduct from the relevant distribution under—

(a) regulation 69Z22(1) (deduction of tax from property income distributions), and

(b) regulation 69Z23(1) (deduction of tax from PAIF distributions (interest)).

(3) The tax is due from the company making the relevant distribution.

(4) The tax is payable without an officer of Revenue and Customs making any assessment.

Assessments where relevant distribution included in return

69Z31.—(1) This regulation applies if any tax in respect of a relevant distribution which is included in a return under this Chapter has not been paid at or before the time mentioned in regulation 69Z30.

(2) An officer of Revenue and Customs may make an assessment on the person who made the relevant distribution.

(3) Tax may be assessed under this regulation whether or not it has been paid when the assessment is made.

Assessments in other cases

69Z32.—(1) This regulation applies if an officer of Revenue and Customs thinks—

(a) that there is a relevant distribution which should have been included in a return under this Chapter and which has not been so included, or

(b) that a return under this Chapter is otherwise incorrect.

(2) An officer of Revenue and Customs may make an assessment on the person who made the relevant distribution to the best of the officer's judgement.

Application of Income Tax Acts provisions about time limits for assessments

69Z33.—(1) The provisions of the Income Tax Acts about the time within which an assessment may be made apply to assessments under this Chapter, so far as those provisions refer or relate to—

(a) the tax year for which an assessment is made, or

(b) the year to which an assessment relates.

(2) Paragraph (1) applies despite the fact that an assessment under this Chapter may relate to a return period which is not a tax year.

(3) The provisions of section 36 of TMA 1970 (fraudulent or negligent conduct) about the circumstances in which an assessment may be made out of time apply accordingly on the basis that any such assessment relates to the tax year in which the return period ends.

(4) Section 87 of TMA 1970 (interest on overdue income tax deducted at source) applies for the purposes of a payment due under regulation 69Z30 or an assessment made under regulation 69Z31 or 69Z32.

[[F161]Certificates of deduction of tax

69Z34.—(1) A company making a relevant distribution which is subject to deduction of tax by virtue of regulation 69Z22(1) must furnish the recipient with a statement that complies with condition A or B.

This is subject to paragraph (5).

(2) The duty imposed by paragraph (1) is enforceable at the suit or instance of the recipient.

(3) Condition A is that the statement is in writing showing—

(a) the gross amount of the payment,

(b) the amount of tax deducted, and

(c) the actual amount paid.

(4) Condition B is that the statement is in writing—

(a) showing—

(i) the gross amount of the distribution made to the participant,

(ii) the number and class of units held by the participant in respect of which the distribution is made,

(iii) the net amount of the distribution per unit,

(iv) whether any tax has been deducted from the distribution, and

(v) the date the distribution was made;

(b) providing details to allow the participant to access an electronic means of calculating the amounts that would be shown in a statement provided in accordance with condition A; and

(c) providing the participant with an alternative method of obtaining the details of those amounts without recourse to electronic means.

(5) If an appropriate statement for the purposes of section 234A of ICTA is provided by the company in accordance with regulation 70(4) and (5)—

(a) condition A does not apply, and

(b) the statement required by condition B must be included in the appropriate statement.

(6) Where paragraph (5) applies, "distribution" in regulation 70(4) and (5) shall be taken to include the property income distribution and the statement must show the percentage of the gross distribution attributable to the property income distribution.**]**

Textual Amendments

F161 Reg. 69Z34 substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **23**

Company's duty to deliver amended return

69Z35.—(1) This regulation applies if an open-ended investment company to which this Part applies makes a distribution, and then becomes aware that—

(a) anything which should have been included in a return delivered by the company under these Regulations has not been so included,

(b) anything which should not have been included in a return delivered by the company under these Regulations has been so included, or

(c) any other error has occurred in a return delivered by the company under these Regulations.

(2) The company must deliver an amended return correcting the error to an officer of Revenue and Customs without delay.

(3) If the company delivers an amended return such assessments, adjustments, setoffs or payments or repayments of tax as are necessary for achieving the objective mentioned in paragraph (4) must be made.

(4) The objective is that the resulting liabilities to income and corporation tax (including interest on unpaid or overpaid tax) of the company or any other person are the same as they would have been if a correct return had been delivered.

CHAPTER 7

LEAVING THE PROPERTY AIF REGIME

Termination by notice: company

69Z36.—(1) This regulation applies if an open-ended investment company to which this Part applies gives a notice under this regulation specifying a date at the end of which this Part is to cease to apply to the company.

(2) This Part shall cease to apply to the company at the end of that date.

(3) A notice under paragraph (1) must be given in writing to the Commissioners.

(4) The date specified under paragraph (1) must be after the date on which the Commissioners receive the notice.

Termination by notice: Commissioners

69Z37.—(1) This regulation applies if the Commissioners give a notice in writing under this paragraph to an open-ended investment company to which this Part applies (a "termination notice").

(2) This Part shall cease to apply to the company.

(3) The Commissioners may give a termination notice only if—

(a) a provision contained in this Part provides that the Commissioners may give a termination notice,

(b) there is an intentional or negligent breach of a condition in Chapter 2, or

(c) there is an attempt to gain a tax advantage to which regulation 69Z10 applies.

(4) A termination notice must state the reason for it.

(5) If a termination notice is given to an open-ended investment company, this Part shall be taken to have ceased to apply to the open-ended investment company at the end of the accounting period before the accounting period during which the event occurs (or the last event occurs) which caused the Commissioners to give the notice.

Appeal against termination notice

69Z38.—(1) An open-ended investment company to which a termination notice is given may appeal [F162]....

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the termination notice is given.

(3) On an appeal **[**[F163]that is notified to the tribunal, the tribunal**]** shall determine whether it was just and reasonable for HM Revenue and Customs to give the termination notice.

(4) If **[**[F164]the tribunal decides**]** that it was, **[**[F165]the tribunal must**]** confirm the notice.

(5) If **[**[F164]the tribunal decides**]** that it was not, **[**[F165]the tribunal must**]** set aside the notice.

Textual Amendments

F162 Words in reg. 69Z38(1) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 158(2)**

F163 Words in reg. 69Z38(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 158(3)**

F164 Words in reg. 69Z38(4)(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 158(4)(a)**

F165 Words in reg. 69Z38(4)(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 158(4)(b)**

Company ceasing to be authorised etc.

69Z39.—(1) This regulation applies if an open-ended investment company to which this Part applies—

(a) ceases to be authorised by the Financial Services Authority,

(b) ceases to be an open-ended investment company, or

(c) ceases to carry on property investment business.

(2) This Part shall cease to apply to the company at the end of the date on which the company ceases to be authorised by the Financial Services Authority, to be an open-ended investment company, or to carry on property investment business (as the case may be).

Mergers

69Z40.—(1) This regulation applies if an open-ended investment company to which this Part applies—

(a) is party to a merger or takeover, and

(b) as a result, ceases to meet one or more of the conditions for this Part to apply.

(2) On the occurrence of the merger or takeover—

(a) an accounting period of the company shall end at the end of the date of the merger or takeover, and

(b) this Part shall cease to apply to the company at the end of that date.

Effects of cessation

69Z41.—(1) The business of F (tax-exempt) shall be treated for the purposes of corporation tax as ceasing immediately before cessation.

(2) Assets which immediately before cessation are involved in the business of F (tax-exempt) shall be treated for the purposes of corporation tax as being sold by F (tax-exempt) immediately before cessation and reacquired immediately after cessation by F (post-cessation).

(3) For the purposes of corporation tax, on cessation one accounting period of F (residual) shall end and an accounting period of F (post-cessation) shall begin.

(4) The sale and reacquisition deemed under paragraph (2) shall not have effect for the purposes of tax in respect of chargeable gains.

(5) For the purposes of CAA 2001, the sale and re-acquisition deemed under paragraph (2)—

(a) shall not give rise to allowances or charges, and

(b) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment).

(6) For the purposes of CAA 2001, anything done by or to F (tax-exempt) before cessation in relation to an asset which is deemed under paragraph (2) to be sold and re-acquired shall be treated after cessation as having been done by or to F (post-cessation).**]**

[F166PART 4B

TAX ELECTED FUNDS

Textual Amendments

F166 Pt. 4B inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **24**

CHAPTER 1

PRELIMINARY PROVISIONS

Tax Elected Funds

69Z42.—(1) This Part makes provision in relation to an authorised investment fund which meets the conditions in regulations 69Z45 to 69Z48.

(2) In these Regulations an authorised investment fund to which this Part applies may be referred to as a "Tax Elected Fund".

Structure of this Part

69Z43. The structure of this Part is as follows—

this Chapter contains preliminary provisions;

Chapter 2 deals with entry into and membership of the Tax Elected Funds regime;

Chapter 3 deals with the tax treatment of Tax Elected Funds;

Chapter 4 deals with distributions made by Tax Elected Funds;

Chapter 5 deals with the treatment of participants in Tax Elected Funds;

Chapter 6 deals with compliance in relation to the Tax Elected Funds regime; and

Chapter 7 contains provisions relating to an authorised investment fund's leaving the Tax Elected Funds regime.

Interpretation

69Z44. In this Part—

"entry" means the time when this Part begins to apply to an authorised investment fund;

"cessation" means the time when this Part ceases to apply to an authorised investment fund;

"overseas property business" has the meaning given in section 206 of CTA 2009;

"UK property business" has the meaning given in section 205 of CTA 2009.

CHAPTER 2

ENTRY INTO AND MEMBERSHIP OF THE TAX ELECTED FUNDS REGIME

Conditions of membership of the Tax Elected Funds regime

Conditions for this Part to apply to fund

69Z45. In order for this Part to apply to an authorised investment fund in respect of an accounting period—

(a) the following conditions (the "TEF conditions") must be met—

(i) the property condition (see regulation 69Z46);

(ii) the genuine diversity of ownership condition (see regulation 9A);

(iii) the loan creditor condition (see regulation 694Z47); and

(iv) the scheme documentation condition (see regulation 69Z48); and

(b) an application for this Part to apply must be accepted by HM Revenue and Customs (see regulations 69Z49 to 69Z53).

The TEF conditions

The property condition

69Z46. The property condition is that the authorised investment fund does not have a UK property business or an overseas property business.

The loan creditor condition

69Z47.—(1) The loan creditor condition is that the authorised investment fund must meet conditions A to C throughout the accounting period in the case of any loan relationship to which the fund is party as a debtor.

(2) Condition A is that, in the case of a debtor relationship of the fund, the person standing in the position of a creditor as respects the debt in question is not entitled to an amount by way of interest which depends to any extent on—

(a) the results of all or part of the authorised investment fund's business, or

(b) the value of any of the fund's assets.

(3) For the purposes of condition A, a loan shall not be treated as dependent on the results of the fund's business by reason only that the terms of the loan provide—

(a) for the interest to be reduced in the event of results improving, or

(b) for the interest to be increased in the event of results deteriorating.

(4) Condition B is that, in the case of a debtor relationship of the fund, the person standing in the position of a creditor as respects the debt in question is not entitled to an amount by way of interest which exceeds a reasonable commercial return on the consideration lent.

(5) Condition C is that, in the case of a debtor relationship of the fund, the person standing in the position of a creditor as respects the debt in question is entitled on repayment to an amount which—

(a) does not exceed the consideration lent, or

(b) is reasonably comparable with the amount generally repayable (in respect of an equal amount of consideration) under the terms of issue of securities listed on a recognised stock exchange.

(6) In this regulation "loan relationship" and "debtor relationship" shall be construed in accordance with Part 5 of CTA 2009 (loan relationships).

The scheme documentation condition

69Z48. The scheme documentation condition is that the instrument constituting the authorised investment fund and its prospectus must include provisions which require the fund to meet the property condition and the loan creditor condition on entry and throughout the accounting period.

Application for this Part to apply

Application process

69Z49.—(1) An application for this Part to apply to an authorised investment fund may be made by—

(a) the manager of an existing authorised investment fund, or

(b) if it is proposed to establish an authorised investment fund, the person expected to become the manager of the fund once established (the "applicant").

(2) Before making an application in relation to an existing authorised investment fund, the fund must obtain any necessary shareholder or unit holder approval and must have applied for any necessary regulatory approval in respect of the instrument constituting the fund and the prospectus.

(3) The manager or applicant must notify HM Revenue and Customs when any necessary regulatory authorisation has been given.

(4) Where in relation to an existing authorised investment fund this Part has previously applied to the fund—

(a) no application may be made if a termination notice was issued in relation to the fund, or

(b) if an election was made under regulation 69Z70 that this Part should cease to apply, no application can be made in relation to any accounting period which begins within six years of the cessation.

(5) In this Part—

"applicant" means the person referred to in paragraph (1)(b);

"application" means an application under this regulation;

"existing fund application" means an application made under paragraph (1)(a); and

"future fund application" means an application made under paragraph (1)(b).

Form and timing of application under regulation 69Z49

69Z50.—(1) An application must be made in writing to the Commissioners.

(2) An existing fund application must be received by HM Revenue and Customs at least 28 days before the beginning of the specified accounting period (see regulation 69Z51(2)).

This is subject to paragraph (8).

(3) A future fund application must be received by HM Revenue and Customs at least 42 days before the date the fund is expected to be established and authorisation given.

This is subject to paragraph (9).

(4) Within a period of 28 days (or 14 days in the case of an application within paragraph (8) or (9)) beginning on the day on which the application is received, HM Revenue and Customs must—

(a) notify the manager or applicant that the application is accepted, or

(b) issue a refusal notice.

(5) An application may be withdrawn or amended at any time before it is accepted—

(a) by the manager (in the case of an existing fund application), or

(b) by the applicant (in the case of a future fund application).

(6) If an application is amended before it is accepted, regulation 69Z49 shall apply to the amended application.

(7) But if HM Revenue and Customs give notice that they are satisfied that the amended application is valid, the amended application shall take effect as if made on the date of the original application.

(8) An existing fund application may be received by HM Revenue and Customs at least 14 days before the beginning of the specified accounting period if—

(a) HM Revenue and Customs have given clearance under regulation 9B, and

(b) the manager of the authorised investment fund certifies that there have been no changes in substance between—

(i) the form in which the instrument constituting the fund and its prospectus were considered by HM Revenue and Customs before giving the clearance, and

(ii) the form in which it is proposed that those documents will apply at the beginning of the specified accounting period.

(9) A future fund application may be received by HM Revenue and Customs at least 14 days before the proposed fund is authorised and established if—

(a) HM Revenue and Customs have given clearance under regulation 9B, and

(b) the applicant certifies that there have been no changes in substance between—

(i) the form in which the instrument constituting the fund and its prospectus were considered by HM Revenue and Customs before giving the clearance, and

(ii) the form in which it is proposed that those documents will apply at the time when the proposed fund is authorised.

Contents of application under regulation 69Z49

69Z51.—(1) An application must include the following information.

(2) An existing fund application must specify the accounting period from the beginning of which the application seeks to apply this Part to the fund (the "specified accounting period").

(3) An existing fund application must be accompanied by—

(a) a statement by the manager of the authorised investment fund that the TEF conditions are reasonably expected to be met in respect of the fund throughout the specified accounting period;

(b) the following documents relating to the fund—

(i) the instrument constituting the fund, and

(ii) its prospectus;

(c) a statement by the manager as to whether or not this Part has previously applied to the fund and where this Part has previously applied that statement must include—

(i) the dates of entry and cessation, and

(ii) a statement by the manager that a termination notice has never been issued in respect of the fund;

(d) a statement by the manager that either—

(i) shareholder or unit holder consent to the application is not required, or

(ii) shareholder or unit holder consent has been given, in which case the statement must specify the date of the shareholder or unit holder resolution giving consent;

(e) a copy of the application to the **[**[F167]appropriate regulator**]** for approval for any changes in the instrument constituting the fund and its prospectus; and

(f) copies of any documents accompanying the application mentioned in sub-paragraph (e) to the extent that those documents do not fall within sub-paragraphs (a) to (d).

(4) A future fund application must specify the date it is expected the fund will be established and authorisation given and seek to apply this Part to the proposed fund from that date.

(5) A future fund application must be accompanied by—

(a) a statement by the applicant that the TEF conditions are reasonably expected to be met in respect of the proposed fund throughout its first accounting period;

(b) the following documents relating to the proposed fund—

(i) the proposed instrument constituting the fund, and

(ii) its [F168]... prospectus [F169]... ;

(c) a copy of the application to the **[**[F170]appropriate regulator**]** for authorisation of the proposed fund as an authorised investment fund; and

(d) copies of any documents accompanying the application mentioned in sub-paragraph (c) to the extent that those documents do not fall within sub-paragraphs (a) and (b).

Textual Amendments

F167 Words in reg. 69Z51(3)(e) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

F168 Word in reg. 69Z51(5)(b)(ii) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(4)(a)**

F169 Words in reg. 69Z51(5)(b)(ii) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(4)(b)**

F170 Words in reg. 69Z51(5)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

Procedural matters relating to the making of applications for this Part to apply

Refusing an application: refusal notice

69Z52.—(1) If any of conditions A to C are met HM Revenue and Customs must refuse the application and give a notice (a "refusal notice")—

(a) to the manager of the authorised investment fund if an existing fund application has been made, or

(b) to the applicant if a future fund application has been made.

(2) Condition A is that—

(a) the documents supplied do not demonstrate that the authorised investment fund (or the proposed authorised investment fund) will meet all the TEF conditions, or

(b) the statement given in accordance with regulation 69Z51(3)(a) or (5)(a) does not demonstrate that the fund (or proposed fund) can reasonably be expected to meet all the TEF conditions throughout the specified accounting period or the first accounting period.

(3) Condition B is that the application is not accompanied by the documents and statements specified in regulation 69Z51(3) in the case of an existing fund application or regulation 69Z51(5) in the case of a future fund application.

(4) Condition C is that any necessary shareholder, unit holder or regulatory authorisation or approval has not been given.

(5) A refusal notice must specify the reason for refusing the application.

Appeal against refusal notice

69Z53.—(1) A person to whom a refusal notice is given may appeal.

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the refusal notice is given.

(3) On an appeal that is notified to the tribunal, the tribunal shall determine whether it was just and reasonable for HM Revenue and Customs to give the refusal notice.

(4) If the tribunal allow the appeal—

(a) they may direct that this Part shall apply to the authorised investment fund (or, as the case may be, to the proposed authorised investment fund), and

(b) they may specify the date from which this Part shall so apply.

(5) The date mentioned in paragraph (4)(b)—

(a) must not be earlier than the beginning of the specified accounting period if an existing fund application has been made, and

(b) must not be earlier than the date of authorisation by the **[**[F171]appropriate regulator**]** if a future fund application has been made.

Textual Amendments

F171 Words in reg. 69Z53(5)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 115(b)**

Consequences of entry

Effects of entry

69Z54. On entry a new distribution period of the authorised investment fund shall begin.

Duration

69Z55. Once this Part has begun to apply to an authorised investment fund it shall continue to apply unless and until it ceases to apply in accordance with Chapter 7 of this Part.

CHAPTER 3

THE TAX TREATMENT OF TAX ELECTED FUNDS

Components of income

69Z56.—(1) For the purposes of corporation tax, the income arising to a Tax Elected Fund consists of—

(a) dividend income;

(b) property investment income, being—

(i) distributions of profits of C (tax-exempt) in relation to shares held in a UK-REIT, and

(ii) property income distributions in relation to shares held in a Property AIF;

(c) property business income (arising on a breach of the property condition), being—

(i) profits of a UK property business that are not within sub-paragraph (b), and

(ii) income from an overseas property business; and

(d) other income.

(2) In this regulation, "C (tax-exempt)" shall be construed in accordance with Part 4 of FA 2006.

Treatment of property investment income

69Z57.—(1) Section 7(2) of ICTA (treatment of certain payments and repayments of income tax: set off of tax) shall not apply to payments of property investment income.

(2) Property investment income arising to a Tax Elected Fund shall be treated for the purposes of the Tax Acts as a distribution that is exempt for the purposes of Part 9A of CTA 2009 (company distributions) but shall not be treated as franked investment income.

Treatment of distributions

69Z58. Section 931R of CTA 2009 (election that distribution should not be exempt) shall not apply in relation to distributions received by a Tax Elected Fund.

CHAPTER 4

DISTRIBUTIONS MADE BY TAX ELECTED FUNDS

[[F172]Allocation of income]

69Z59.—[[F173](1) The total amount available for income allocation in a Tax Elected Fund shall be attributed as follows.]

(2) There shall be attributed to TEF distributions (dividends)—

(a) dividend income,

(b) property investment income, and

(c) property business income.

(3) Other income shall be attributed to TEF distributions (non-dividend).

Textual Amendments

F172 Reg. 69Z59 heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **18(2)** (with reg. 24)

F173 Reg. 69Z59(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **18(3)** (with reg. 24)

TEF distributions (dividends)

69Z60.—(1) This regulation applies if—

(a) a Tax Elected Fund makes a distribution, and

(b) the amount distributed includes sums attributed to TEF distributions (dividends).

(2) The Tax Acts shall have effect as if the sums were dividends on shares paid on the distribution date by the fund to the participants in proportion to their rights.

(3) In this Part a "TEF distribution (dividend)" means a sum attributed to TEF distributions (dividends) which is distributed (including a dividend treated as paid to a participant who is not chargeable to corporation tax).

(4) This regulation is subject to regulation 23 (treatment of de minimis amounts).

TEF distributions (non-dividend)

69Z61.—(1) This regulation applies if—

(a) a Tax Elected Fund makes a distribution, and

(b) the amount distributed includes sums attributed to TEF distributions (non-dividend).

(2) The Tax Acts shall have effect as if the sums were payments of yearly interest made on the distribution date by the fund to the participants in proportion to their rights.

[
[F174](2A) For the purposes of Part 10 (Corporate Interest Restriction) of TIOPA 2010, a TEF distribution (non-dividend) is treated as not being a tax-interest expense amount of the Tax Elected Fund.**]**

(3) In these Regulations a "TEF distribution (non-dividend)" means a sum attributed to TEF distributions (non-dividend) which is distributed (including a payment made to a participant who is not chargeable to income tax).

(4) This regulation is subject to regulation 23 (treatment of de minimis amounts).

Textual Amendments

F174 Reg. 69Z61(2A) inserted (29.12.2017) by The Corporate Interest Restriction (Consequential Amendments) Regulations 2017 (S.I. 2017/1227), regs. 1, **2(4)**

CHAPTER 5

THE TREATMENT OF PARTICIPANTS IN TAX ELECTED FUNDS

TEF distribution (dividend)

Participants chargeable to corporation tax

69Z62.—(1) If a TEF distribution (dividend) is made for a distribution period to a participant within the charge to corporation tax, regulations 48 to 52A (dividend distributions) shall apply with the modifications specified in paragraph (2).

(2) The specified modifications are—

(a) for "dividend distribution" in each place it occurs there shall be substituted "TEF distribution (dividend)";

[[F175](b) in regulation 50 (references to gross income) for "the net revenue before taxation shall be determined in accordance with the Statement of Recommended Practice" there shall be substituted "the amount attributed to TEF distributions (dividends) in accordance with regulation 69Z59 (allocation of income);".**]**

(c) for "an authorised investment fund" in each place it occurs there shall be substituted "a Tax Elected Fund"; and

(d) for "the authorised investment fund" in each place it occurs there shall be substituted "the Tax Elected Fund".

Textual Amendments

F175 Reg. 69Z62(2)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **19** (with reg. 24)

TEF distributions (non-dividend)

Obligation to deduct tax from TEF distributions (non-dividend)

69Z63.—(1) If a TEF distribution (non-dividend) is made for a distribution period to a participant within the charge to income tax, regulations 26 to 33 (deduction of tax from interest distributions: general) shall apply with the modification specified in paragraph (3).

(2) If a TEF distribution (non-dividend) is made for a distribution period to a participant within the charge to corporation tax, regulation 47 (the obligation to deduct tax) shall apply with the modification specified in paragraph (3).

(3) The modification specified is that for "interest distribution" in each place it occurs there shall be substituted "TEF distribution (non-dividend)".

Modification of section 490 of CTA 2009

69Z64. Section 490 of CTA 2009 (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights) shall apply to a participant in a TEF as if in subsections (4) and (5) for "interest distribution" there were substituted "TEF distribution (non-dividend)".

CHAPTER 6

COMPLIANCE IN RELATION TO THE TAX ELECTED FUNDS REGIME

Breaches of TEF conditions

Breach of conditions: general

69Z65.—(1) This regulation applies if a Tax Elected Fund—

(a) does not meet one of the TEF conditions, and

(b) becomes aware that it does not meet the condition.

(2) Within 28 days of becoming aware of the breach, the fund must provide the following information to the Commissioners—

(a) the date on which the condition first ceased to be met;

(b) the date on which the fund became aware of the breach;

(c) details of the condition that was breached;

(d) the nature of the breach;

(e) the steps the fund proposes to take to rectify the breach;

(f) the date by which the fund proposes to rectify the breach; and

(g) where there has been a previous breach of the TEF conditions, details of the condition that was breached on that occasion, the date of that breach and the date that breach was rectified.

(3) The date referred to in paragraph (2)(f) must be the earliest date by which the objective of complying with the relevant condition may reasonably be achieved.

(4) The Commissioners must give a termination notice to the fund if—

(a) the steps that the fund proposes to take will not rectify the breach;

(b) the date by which the fund proposes to rectify the breach is not the earliest date by which the objective of remedying the relevant condition may reasonably be achieved;

(c) the fund is intentionally or negligently in breach of a condition; or

(d) there are three breaches of the same TEF condition in a period of ten years beginning with the first day of the accounting period in which the fund becomes aware of the first of those breaches.

Breach of the property condition, genuine diversity of ownership condition or scheme documentation condition

69Z66.—(1) This regulation applies if a Tax Elected Fund is in breach of the property condition, genuine diversity of ownership condition or scheme documentation condition.

(2) If the fund is inadvertently in breach but rectifies the breach within a reasonable time of the fund becoming aware of the breach, this Part shall continue to apply to the fund despite the breach (but see regulations 69Z65(4)(d) and 69Z68).

(3) If the fund is inadvertently in breach but does not rectify the breach within a reasonable time of the fund first becoming aware of the breach, the Commissioners must give a termination notice to the fund.

Breach of the loan creditor condition

69Z67.—(1) This regulation applies if a Tax Elected Fund is in breach of the loan creditor condition.

(2) If the fund is inadvertently in breach but rectifies the breach within a period of 28 days beginning with the day on which the fund first becomes aware of the breach, this Part shall continue to apply to the fund despite the breach (but see paragraph (4) and regulations 69Z65(4)(d) and 69Z68).

(3) If the fund is inadvertently in breach but does not rectify the breach within a period of 28 days beginning with the day on which the fund first becomes aware of the breach, the Commissioners must give a termination notice to the fund.

(4) If the fund is in breach of the same condition specified in paragraphs (2) to (5) of regulation 69Z47 in two different accounting periods in a period of ten years beginning with the first day of the accounting period in which the fund becomes aware of the first of those breaches, the Commissioners must give a termination notice to the fund.

Multiple breaches of separate conditions

69Z68. The Commissioners must give a termination notice to a Tax Elected Fund if—

(a) there has been a breach of at least two of the TEF conditions, and

(b) there have been four breaches in a period of ten years beginning with the first day of the accounting period in which the first breach occurs.

Information about possible breaches of the TEF conditions

Information to be provided to officers of Revenue and Customs

69Z69.—(1) This regulation applies if an officer of Revenue and Customs thinks that a Tax Elected Fund—

(a) does not meet, or may not meet, one of the TEF conditions, or

(b) has not rectified a breach of such a condition.

(2) The officer may serve a notice (an "information notice") on the manager of the fund requiring the manager to provide any of the information specified in regulation 69Z65(2) within a specified period.

(4) If the manager does not comply with the information notice within the specified period the Commissioners must give a termination notice.

(5) In this regulation the specified period is a period of 28 days beginning with the day on which the notice is served or, on an application by the manager, such longer period as the officer of Revenue and Customs thinks is reasonable.

CHAPTER 7

LEAVING THE TAX ELECTED FUNDS REGIME

Termination by election: authorised investment fund

69Z70.—(1) This regulation applies if a Tax Elected Fund gives a notice under this regulation electing that this Part is to cease to apply to the fund at the end of a specified accounting period.

(2) This Part shall cease to apply to the fund at the end of that accounting period.

(3) A notice under paragraph (1) must—

(a) be given in writing to the Commissioners,

(b) be given before the end of the accounting period specified in paragraph (1), and

(c) give the reasons for the fund leaving the TEF regime.

Termination by notice: Commissioners

69Z71.—(1) This regulation applies if the Commissioners give a notice in writing under this paragraph to a Tax Elected Fund (a "termination notice").

(2) This Part shall cease to apply to the fund.

(3) The Commissioners may give a termination notice only if a provision contained in this Part provides that the Commissioners must give a termination notice.

(4) A termination notice must state the reason for it.

(5) If a termination notice is given to an authorised investment fund, this Part shall be taken to have ceased to apply to the fund at the end of the accounting period immediately preceding the accounting period in which the notice was given.

(6) But regulations 13 (treatment of interest distributions for the purpose of loan relationships), 69Z61 (TEF distributions (non-dividend)) and 69Z63 (obligation to deduct tax from TEF distributions (non-dividend)) shall apply in relation to any TEF distribution (non-dividend) made before the notice was given.

Appeal against termination notice

69Z72.—(1) An authorised investment fund to which a termination notice is given may appeal.

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the termination notice is given.

(3) On an appeal that is notified to the tribunal, the tribunal shall determine whether it was just and reasonable for HM Revenue and Customs to give the termination notice.

(4) If they decide that it was, they must confirm the notice.

(5) If they decide that it was not, they must set aside the notice.

Mergers

69Z73.—(1) This regulation applies if a Tax Elected Fund—

(a) is party to a merger or takeover, and

(b) as a result, ceases to meet one or more of the TEF conditions.

(2) On the occurrence of the merger or takeover—

(a) an accounting period of the fund shall end at the end of the date of the merger or takeover, and

(b) this Part shall cease to apply to the fund at the end of that date.**]**

PART 5

COMPLIANCE

Information relating to distributions

Application of section 234A of ICTA

70.—(1) Section 234A of ICTA [M17] (information relating to distributions) applies in relation to an authorised investment fund with any necessary modifications.

(2) In the appropriate statement sent under that section to a participant within the charge to corporation tax, the legal owner of the authorised investment fund must include a statement showing the legal owner's net liability to corporation tax in respect of the gross income.

(3) In paragraph (2)—

"gross income" has the same meaning as in regulation 50, and

"net liability to corporation tax" is to be construed in accordance with regulation 49(3).

[[F176](4) In the case of a Property AIF and a Tax Elected Fund, an appropriate statement for the purposes of section 234A of ICTA includes a written statement—

(a) showing the details specified in paragraph (5),

(b) providing details to allow the participant to access an electronic means of calculating the amounts that would be shown in a written statement that would, apart from this paragraph, be provided in accordance with subsection (6) (in the case of a PAIF distribution (interest) or a TEF distribution (non-dividend)) or subsection (7) (in the case of a PAIF distribution (dividends) or a TEF distribution (dividend)) of section 234A, and

(c) providing the participant with an alternative method of obtaining the details of those amounts without recourse to electronic means.

(5) The specified details are—

(a) the gross amount of the distribution made to the participant,

(b) the number and class of units held by the participant in respect of which the distribution is made,

(c) the net amount of the distribution per unit,

(d) whether any tax has been deducted from the distribution,

(e) the date the distribution was made, and

(f) the percentage of the gross distribution attributable—

(i) in the case of a Property AIF, to PAIF distribution (interest) and to PAIF distribution (dividends), or

(ii) in the case of a Tax Elected Fund, to TEF distribution (dividend) and to TEF distribution (non-dividend).**]**

Textual Amendments

F176 Reg. 70(4)(5) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **25**

Marginal Citations

M17 Section 234A was inserted by section 32(1) of the Finance (No. 2) Act 1992 (c. 48) and amended by paragraph 2(2) of Schedule 37 to the Finance Act 1996 (c. 8).

*Interest distributions **[**[F177]and TEF distributions (non-dividend)**]***

Textual Amendments

F177 Words in reg. 71 cross-heading inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **26**

Notification of interest distributions [[F178]and TEF distributions (non-dividend)] made without deduction of tax

71.—(1) If, during a tax year, an authorised investment fund has made interest distributions **[**[F179]and TEF distributions (non-dividend)**]** without deduction of tax, the legal owner must give notice of that fact to the Commissioners within 14 days of the end of that tax year.

(2) Notice given under paragraph (1)—

(a) must be in writing, and

(b) has effect for the tax year in which it is given and for subsequent tax years until the notice is withdrawn.

(3) An authorised investment fund that fails to comply with paragraph (1) is liable to a penalty not exceeding £3,000 determined in accordance with section 100 of TMA 1970 [M18].

(4) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970 [M19] apply to a penalty determined in accordance with paragraph (3).

Textual Amendments

F178 Words in reg. 71 heading inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **26**

F179 Words in reg. 71(1) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **27**

Marginal Citations

M18 1970 c. 9. Section 100 was substituted by section 167 of the Finance Act 1989 (c. 26). There are amendments to section 100 but none is relevant.

M19 Sections 100A and 100B were substituted by section 167 of the Finance Act 1989, and section 100B was amended by paragraph 31 of Schedule 19 to the Finance Act 1994 and section 115(7) of the Finance Act 1995 (c. 4) and by S.I. 1994/1813. Section 102 was amended by section 168(40 of the Finance Act 1989. Section 118(2) was amended by Part VII of Schedule 8 to the Finance Act 1970 (c. 24) and by section 94 of the Finance (No. 2) Act 1987 (c. 51).

Information about interest distributions [F180and TEF distributions (non-dividend)] made without deduction of tax

72.—(1) The Commissioners may by notice require a person specified in paragraph (2) to provide them with such information as they may reasonably require for the purpose of determining whether interest distributions **[**F181and TEF distributions (non-dividend)**]** were properly made by that person without deduction of tax.

(2) The persons specified are—

(a) an open-ended investment company;

(b) the authorised corporate director of an open-ended investment company;

(c) a trustee of an authorised unit trust.

(3) The information to be provided may include copies of any relevant books, documents or other records.

(4) The information must be provided within such time (not being less than 14 days) as may be specified in the notice.

Textual Amendments

F180 Words in reg. 72 heading inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **26**

F181 Words in reg. 72(1) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **28**

Inspection of records

73.—(1) A person specified in regulation 72(2) must, whenever required to do so, make available for inspection by an officer of the Commissioners authorised for that purpose, at such time as that officer may reasonably require, all such copies of books, documents or other records in their possession or under their control as may be required by the Commissioners under regulation 72.

(2) Every qualifying certificate supplied to a legal owner under Chapter 2 of Part 4 (participants chargeable to income tax) must be preserved by the legal owner in such manner as may be approved

by the Commissioners for two years after it has ceased to be otherwise required under the provisions of these Regulations.

Use of information

74.—(1) Information obtained by the Commissioners under regulation 72 or 73—

(a) must not be used for the purpose of ascertaining the tax liability (if any) of any person other than the persons specified in paragraph (2), and

(b) must otherwise be used only for the purposes of these Regulations.

(2) The persons specified in this paragraph are—

(a) the open-ended investment company in question;

(b) the trustees of the authorised unit trust in question;

(c) a participant who is beneficially entitled to an interest distribution **[**[F182]or a TEF distribution (non-dividend)**]** made without deduction of tax to whom the information obtained relates;

(d) where the whole of an interest distribution **[**[F182]or a TEF distribution (non-dividend)**]** made to or received under a trust without deduction of tax is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, that person in so far as the information obtained relates to him; and

(e) where an interest distribution **[**[F182]or a TEF distribution (non-dividend)**]** is made to or received under a trust without deduction of tax and sub-paragraph (d) does not apply, the trustees of that trust and any beneficiary of the trust to whom the information obtained relates.

(3) In paragraph (2)(e) "any beneficiary of the trust" means—

(a) any person who is, or will or may become, entitled to any income of the trust, whether in the form of income or not, and

(b) any person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by the trustees of the trust.

(4) Paragraph (1) does not prevent any disclosure of information authorised under section 182(5) of the Finance Act 1989 [M20].

Textual Amendments

F182 Words in reg. 74(2)(c)(d)(e) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **29**

Marginal Citations

M20 1989 c. 26. Section 182(5) was amended by section 18(5) of the Child Trust Funds Act 2004 (c. 6).

Residence declarations

Inspection of residence declarations

75.—(1) The legal owner of an authorised investment fund must, on being required to do so by a notice given by an officer of the Commissioners, make available for inspection by such an officer—

(a) any residence declarations made to the authorised investment fund under Chapter 2 of Part 4 (participants chargeable to income tax), or

(b) any specified declaration or description of declarations.

(2) If a notice has been given to the legal owner under paragraph (1), the declarations shall be made available within such time as may be specified in the notice and the person carrying out the inspection may take copies of or extracts from them.

PART 6

FURTHER PROVISIONS RELATING TO AUTHORISED INVESTMENT FUNDS

CHAPTER 1

GENERAL

Ownership of shares of different denominations in open-ended investment companies

76.—(1) This regulation applies if conditions A and B are met.

(2) Condition A is that in respect of a given class of shares specified in the instrument of incorporation of an open-ended investment company, shares issued of that class consist of both smaller denomination shares and larger denomination shares.

(3) Condition B is that a participant owns both smaller denomination shares and larger denomination shares of that class.

(4) For the purposes of the provisions relating to ownership of shares in a company contained in the Tax Acts and TCGA 1992, the shares owned by the participant are treated as securities of the same class.

(5) Each larger denomination share is to be treated for those purposes as if it were comprised of the relevant number of smaller denomination shares.

(6) The market value of each smaller denomination share is to be taken for those purposes to be the relevant proportion of the market value of each larger denomination share.

(7) In this regulation—

"smaller denomination shares" means shares to which are attached rights specified in the company's instrument of incorporation that are expressed in the smaller of two denominations;

"larger denomination shares" means shares to which are attached rights so specified that are expressed in the larger of two denominations;

"relevant number" means the number calculated by reference to the relevant proportion; and

"relevant proportion" means the proportion, determined by the company's instrument of incorporation, which the rights attaching to each smaller denomination share bear to the rights attaching to each larger denomination share.

Non-discrimination in respect of different classes of shares

77.—**[**[F183](1) This regulation applies if there is an amount available for income allocation.**]**

(2) There must not be any discrimination between participants in respect of different classes of shares.

(3) There is no such discrimination if condition A and either condition B or C is met.

(4) Condition A is that the differences are wholly attributable to differences between the amounts or treatment for accounting purposes of the charges or expenses which—

(a) are permitted by the instrument of incorporation of the open-ended investment company concerned or the prospectus in issue for the time being of that company [F184]... or by the trust deed under which the authorised unit trust is constituted, and

(b) are payable out of the scheme property of that authorised investment fund in respect of the shares of those classes.

(5) Condition B is that the authorised investment fund is able to show that the differences between the amounts or treatment for accounting purposes of the charges or expenses referred to in condition A apply for bona fide commercial reasons.

(6) Condition C is that the differences are not such as to enable the participants in any one of those classes to obtain a tax advantage which they would not obtain if there were no differences between the amounts or treatment for accounting purposes of those charges or expenses.

(7) In paragraph (6) "tax advantage" has the same meaning as in Chapter 1 of Part 17 of ICTA (cancellation of tax advantages from transactions in securities).

Textual Amendments

F183 Reg. 77(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **20** (with reg. 24)

F184 Words in reg. 77(4)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **23(1)**

CHAPTER 2

AMALGAMATION OF AN AUTHORISED UNIT TRUST WITH, AND CONVERSION OF AN AUTHORISED UNIT TRUST TO, AN OPEN-ENDED INVESTMENT COMPANY

Circumstances in which this Chapter applies

78.—(1) This Chapter applies if, in connection with a scheme of reorganisation, conditions A to E are met.

(2) Condition A is that the whole of the scheme property of an authorised unit trust that is available for transfer is transferred on a given date under an arrangement to an open-ended investment company.

(3) Condition B is that the consideration under the arrangement consists of or includes the issue, on the transfer date, of shares in the acquiring company to the holders of units in the target trust in exchange for those units.

(4) Condition C is that the consideration shares are issued to the holders of units in proportion to their holdings of the exchanged units.

(5) Condition D is that the consideration under the arrangement does not include anything else in addition to the issue of the consideration shares, other than (where applicable) the assumption or discharge by the acquiring company of liabilities of the trustees of the target trust.

(6) Condition E is that under the arrangement all the units in the target trust are extinguished.

(7) In this Chapter—

the "target trust" means the authorised unit trust mentioned in paragraph (2);

the "transfer date" means the given date mentioned in paragraph (2);

the "acquiring company" means the open-ended investment company mentioned in paragraph (2); and

"the whole of the scheme property of an authorised unit trust that is available for transfer" means the whole of the property subject to the trusts of the target trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the target trust;

the "consideration shares" means the shares in the acquiring company mentioned in paragraph (4); and

the "exchanged units" means the units in the target trust mentioned in paragraph (4).

Ending of accounting period of the target trust

79.—(1) An accounting period of the target trust (the "pre-transfer accounting period") ends immediately before the transfer date; and, for the purposes of the Corporation Tax Acts, the whole of the scheme property of the target trust that is available for transfer is treated as having been transferred immediately after the end of that accounting period.

(2) This regulation applies despite anything in section 12(1) to (7) of ICTA (periods of assessment for corporation tax).

Carrying forward of excess management expenses

80.—(1) This regulation applies if condition A or B is met.

(2) Condition A is that, in respect of the pre-transfer accounting period of the target trust, the trustees are entitled, under section 75(9) of ICTA [M21] (carry forward of management expenses and sums treated as management expenses), to carry forward an excess amount to the next accounting period of the trust.

(3) Condition B is that—

(a) the pre-transfer accounting period is the final accounting period of the target trust, and

(b) the trustees are entitled, under section 75(9) of ICTA, to carry forward an excess amount to what would have been the next accounting period of the trust were the trust to have an accounting period beginning on the transfer date.

(4) With effect from the transfer date, the entitlement is translated into a right in the acquiring company to treat the amount as if it had been carried forward under section 75(9) of ICTA to the first of its accounting periods to end on or after the transfer date.

Marginal Citations

M21 Section 75 was substituted by section 38(1) of the Finance Act 2004 (c. 12).

Distributions by authorised unit trust after the end of its pre-transfer accounting period

81.—(1) This regulation applies if, in respect of any post-transfer distribution date of the target trust, there is an amount which falls to be treated, in accordance with regulation **[**[F185]22**]** (dividend distributions: general), as dividends on shares paid on that distribution date by the target trust to its participants in proportion to their rights.

(2) The amount shall instead be treated as dividends on shares paid on that date by the acquiring company to those persons in proportion to their rights.

(3) In this regulation "post-transfer distribution date" of a target trust means a distribution date of that trust which—

(a) occurs on or after the transfer date, and

(b) is the distribution date for a distribution period of the trust ending before the transfer date.

Textual Amendments

F185 Word in reg. 81(1) substituted (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **4**

Continuing validity of residence declarations

82.—(1) This regulation applies if—

(a) before the transfer date, a unit holder has made a residence declaration to the trustees of the target trust, and

(b) immediately before the transfer date, the trustees of the target trust treated the residence declaration as valid.

(2) The acquiring company may treat the residence declaration as valid.

Powers of the acquiring company

83.—(1) On and after the transfer date, the acquiring company has the powers set out in paragraphs (2) and (3).

(2) The acquiring company may continue anything which—

(a) immediately before the transfer date was in the process of being done by the trustees of the target trust for the purposes of tax in relation to accounting periods of the target trust ending before that date, and

(b) is not continued by those trustees on or after the transfer date.

(3) The acquiring company may do anything which—

(a) immediately before the transfer date was not in the process of being done by the trustees of the target trust for the purposes of tax in relation to accounting periods of the target trust ending before that date and is not done by them for those purposes, and

(b) might reasonably have been expected to be done by those trustees for those purposes had the scheme of reorganisation not taken place.

Assessments made on discovery

84. The provisions of this Chapter do not affect any enactment in the Tax Acts which provides for assessments to be made where an officer of the Commissioners discovers that a set-off, matching, repayment of tax, or payment of tax credit or provision for relief in any other form ought not to have been made, given or otherwise allowed, or is or has become excessive.

Prevention of double relief

85. For the purposes of the Tax Acts, nothing in this Chapter has the effect of enabling—

(a) any set-off or matching of an amount to be made,

(b) any repayment of an amount of tax or payment of an amount of tax credit to be made, or

(c) any other relief to be given,

more than once in respect of the same amount or relief.

[F186 PART 6A

FUNDS INVESTING IN NON-REPORTING OFFSHORE FUNDS

Textual Amendments

F186 Pt. 6A inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2010 (S.I. 2010/294), regs. 1(1), **21** (with regs. 25, 26)

CHAPTER 1

Preliminary Provisions

FINROFs

85A.—(1) This Part applies to—

(a) an authorised investment fund which meets the investment condition in regulation 85D (the investment condition);

(b) an authorised investment fund in respect of which an election has been made in accordance with regulation 85F (elective FINROFs);

(c) a participant in a fund mentioned in paragraph (a) or (b); and

(d) a participant in a fund which has left the FINROF regime, where the participant has not made a valid election under regulation 85Z11 (participant's power to elect for deemed disposal).

(2) A fund to which this Part applies shall be known as a Fund Investing in Non-Reporting Offshore Funds ("FINROF").

Structure of this Part

85B. The structure of this Part is as follows—

This Chapter contains preliminary provisions;

Chapter 2 deals with entry into the Funds Investing in Non-Reporting Offshore Funds regime ("FINROF regime");

Chapter 3 deals with the tax treatment of FINROFs and of participants in FINROFs;

Chapter 4 deals with exceptions, etc from the charge to tax;

Chapter 5 deals with disposal of units in FINROFs;

Chapter 6 deals with income gains and computation of income gains;

Chapter 7 deals with deduction of income gains in computing chargeable gains;

Chapter 8 deals with leaving the FINROF regime.

Interpretation

85C. In this Part—

"gross asset value" means the value of the investments comprising the scheme property of the authorised investment fund before the deduction of specified liabilities, but does not include cash awaiting investment;

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Textual Amendments

F187 Words in reg. 85C omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **9(1)** (with reg. 8)

The investment condition

85D.—(1) The investment condition is met in relation to an authorised investment fund if the total amount invested in non-reporting funds or FINROFs is more than **[**[F188]50%**]** of the gross asset value of the authorised investment fund.

(2) This regulation is subject to regulation 85E.

Textual Amendments

F188 Figure in reg. 85D(1) substituted (6.3.2011) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **5** (with reg. 8)

Interests in funds treated as not being interests in non-reporting funds

85E.—(1) For the purposes of regulation 85D(1) the interests specified in paragraph (2) shall not be regarded as interests in non-reporting funds.

[[F189](2) The interests specified are—

(a) any interest in an offshore fund in respect of which, by virtue of regulation 29 or 30 of the Offshore Funds Regulations, no liability to tax would arise under regulation 17 of those Regulations on a disposal of that interest; and

(b) any interest of an authorised investment fund in a non-reporting fund which meets the conditions in regulation 14ZA(2).**]**

Textual Amendments

F189 Reg. 85E(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/244), regs. 1(1), **6(2)** (with reg. 8)

Elective FINROFs

85F.—(1) An authorised investment fund which does not meet the investment condition may elect to be treated as a FINROF (an "elective FINROF").

This is subject to paragraph (4).

(2) An election under paragraph (1) must—

(a) be made in writing to HM Revenue and Customs by the manager; and

(b) specify the date from which the fund is to be so treated.

(3) But the manager must not specify a date which is more than 3 months before the date of the election mentioned in paragraph (2).

(4) Before making an election, the fund must have obtained any necessary regulatory approval in respect of the instrument constituting the fund and the prospectus.

CHAPTER 2

Entry into Funds Investing in Non-Reporting Offshore Fund ("FINROF") regime

Entry into FINROF regime: the basic rule

85G. This Part applies to an authorised investment fund from—

(a) the date on which the fund first met the condition in regulation 85D (the investment condition); or

(b) the date specified in the notice given under regulation 85F (elective FINROFs),

whichever is the earlier.

The requirement to notify where regulation 85D is satisfied

85H.—(1) The legal owner of an authorised investment fund which is a FINROF by virtue of regulation 85D must notify HM Revenue and Customs of the date on which the fund first met the investment condition within a period of 3 months beginning with the date on which the fund first met that condition.

(2) For the purposes of paragraph (1), no account shall be taken of the period before the date of any previous valid election under regulation 85Z9 (leaving the FINROF regime).

(3) An authorised investment fund that fails to comply with this regulation is liable to a penalty not exceeding £3,000 determined in accordance with section 100 of TMA 1970.

(4) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970 apply to a penalty determined in accordance with paragraph (3).

(5) This regulation is subject to regulation 85J (inadvertent fulfilment of investment condition).

The requirement to notify participants when a fund enters the FINROF regime

85I.—(1) The legal owner must notify the participants in a fund that the fund has entered the FINROF regime and inform them that any gains made on the disposal of units in the fund shall be treated as an income gain rather than a capital gain, in accordance with Chapter 3 of this Part.

(2) The notification under paragraph (1) must be given within a period of 3 months beginning with the date on which this Part first applied to the fund.

(3) For the purposes of paragraph (2), no account shall be taken of the period before the date of any previous valid election under regulation 85Z9 (leaving the FINROF regime).

(4) An authorised investment fund that fails to comply with this regulation is liable to a penalty not exceeding £3,000 determined in accordance with section 100 of TMA 1970.

(5) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970 apply to a penalty determined in accordance with paragraph (4).

(6) This regulation is subject to regulation 85J.

Inadvertent fulfilment of investment condition

85J.—(1) If this regulation applies a fund shall be treated as if it had never met the investment condition and consequently none of the provisions of this Part (including the penalty provisions in regulations 85H and 85I) apply to the fund.

(2) This regulation applies where—

(a) an authorised investment fund meets the investment condition but as soon as possible after becoming aware that the condition is met, the legal owner gives notice in writing to HM Revenue and Customs of the steps that the fund has taken, or proposes to take, to ensure that the fund no longer meets that condition,

(b) the fund ceases the meet the investment condition before the end of a 4 month period beginning with the date that the fund first met the condition and the legal owner gives notice in writing to HM Revenue and Customs that the fund no longer meets the condition, and

(c) HM Revenue and Customs issue a notice in writing that this regulation applies.

(3) HM Revenue and Customs must, within a period of 28 days beginning with the date on which they receive notice from the legal owner that the fund no longer meets the investment condition, issue a notice in writing to the legal owner that—

(a) this regulation applies, or

(b) this regulation does not apply as HM Revenue and Customs are not satisfied that the conditions in sub-paragraphs (a) and (b) of paragraph (2) are met for the reasons specified in the notice.

Appeal against refusal to provide written notice

85K.—(1) A legal owner to whom a notice is issued under paragraph (3)(b) of regulation 85J (a "refusal notice") may appeal.

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which HM Revenue and Customs issued the refusal notice.

(3) On an appeal that is notified to the tribunal, the tribunal shall determine whether it was just and reasonable for HM Revenue and Customs to issue the refusal notice.

(4) If the tribunal determine that it was just and reasonable for HM Revenue and Customs to issue the refusal notice, this Part applies to the fund from the date on which it first met the investment condition and the legal owner must notify the participants in the fund in accordance with regulation 85I.

(5) If the tribunal determine that it was not just and reasonable for HM Revenue and Customs to issue the refusal notice, paragraph (1) of regulation 85J shall apply.

Disposal of an interest in an authorised investment fund prior to its becoming a FINROF

85L.—(1) This regulation applies if an authorised investment fund either meets the investment condition or becomes an elective FINROF in accordance with regulation 85F.

(2) A participant in the fund may make an election to be treated for the purposes of TCGA 1992—

(a) as disposing of all the units that they hold in the authorised investment fund on the deemed disposal date, and

(b) as immediately upon that disposal, acquiring units in the FINROF.

(3) The disposal referred to in paragraph (2)(a) is treated as made for a consideration equal to the market value of the participant's holding of units in the fund on the deemed disposal date.

(4) The acquisition referred to in paragraph (2)(b) is treated as made for a consideration equal to the consideration for the disposal referred to in paragraph (2)(a).

(5) If the participant is chargeable to income tax, the election mentioned in paragraph (2) must be made by being included in a return made for the tax year which includes the deemed disposal date.

(6) If the participant is chargeable to corporation tax, the election mentioned in paragraph (2) must be made by being included in the participant's company tax return for the accounting period which includes the deemed disposal date.

(7) In this regulation—

(a) "company tax return" has the same meaning as in Schedule 18 to the Finance Act 1998, and

(b) "deemed disposal date" means the date on which this Part begins to apply to the authorised investment fund.

CHAPTER 3

Tax treatment of FINROFs and of participants in FINROFs

The charge to tax

The charge to tax: general provisions

85M.—(1) There is a charge to tax if—

(a) a person disposes of an asset,

(b) either condition A or condition B is met, and

(c) as a result of the disposal, an income gain (see regulation 85Z) arises to the person making the disposal.

(2) Condition A is that the asset consists of units in a FINROF at the time of the disposal.

(3) Condition B is that—

(a) the asset consists of units in an authorised investment fund that had been a FINROF for some of the material period; and

(b) no valid election under regulation 85Z11 (participant's power to elect for deemed disposal) was made in relation to the asset.

(4) In paragraph (3) "the material period" means a period beginning with the date of acquisition of the asset and ending with the date of the disposal.

The charge to tax: further provisions

85N.—(1) The income gain arising is treated for all purposes of the Tax Acts as income which arises at the time of the disposal to the person making the disposal (or treated as making the disposal).

(2) The tax is charged on the person making the disposal (or treated as making the disposal).

(3) In the case of a person chargeable to income tax, tax is charged under Chapter 8 of Part 5 of ITTOIA 2005 (miscellaneous income: income not otherwise charged) for the year of assessment in which the disposal is made, but sections 688(1) (income charged) and 689 (person liable) of ITTOIA 2005 do not apply.

(4) In the case of a person chargeable to corporation tax, tax is charged under Chapter 8 of Part 10 of CTA 2009 (miscellaneous income: income not otherwise charged) for the accounting period in which the disposal is made.

Application of certain provisions of TCGA 1992

85O. The following enactments have effect in relation to income tax or corporation tax in respect of income gains as they have effect in relation to capital gains tax or corporation tax in respect of chargeable gains—

(a) section 2(1) of TCGA 1992 (persons chargeable to capital gains tax);

(b) section 10 of TCGA 1992 (non-resident with a United Kingdom branch or agency);

(c) section 10B of TCGA 1992 (non-resident company with United Kingdom permanent establishment).

Application of section 10A of TCGA 1992

85P.—(1) Section 10A of TCGA 1992 (temporary non-residence) applies for the purposes of this Part with the following modifications.

(2) The section applies as if, in subsection (2)—

(a) the reference to section 86A were omitted;

(b) for the reference to capital gains tax there were substituted a reference to income tax;

(c) in paragraph (a), for the reference to chargeable gains and losses there were substituted a reference to income gains;

(d) paragraphs (b) and (c) were omitted; and

(e) for the references to gains or losses there were substituted a reference to income gains.

(3) The section applies as if, in subsection (3)—

(a) for the reference to gains and losses there were substituted a reference to income gains; and

(b) for the reference to any gain or loss there were substituted a reference to any income gains.

(4) The section applies as if subsection (4) were omitted.

(5) The section applies as if, in subsection (5)—

(a) for the reference to gains and losses there were substituted a reference to income gains;

(b) for the reference to any chargeable gain or allowable loss there were substituted a reference to any income gain; and

(c) for the reference to section 10 or 16(3) there were substituted a reference to regulation 85O(b) (application of certain provisions of TCGA).

(6) The section applies as if subsection (6) were omitted.

(7) The section applies as if, in subsection (7), for the reference to capital gains tax there were substituted a reference to income tax.

(8) The section applies as if, in subsection (9C)—

(a) for the reference to capital gains tax there were substituted a reference to income tax; and

(b) for the reference to chargeable gains there were substituted a reference to income gains.

CHAPTER 4

Exceptions, etc from the charge to tax

Exceptions from the charge to tax

85Q.—(1) No liability to tax arises under regulation 85M (the charge to tax: general provisions) if condition A or B is met.

(2) Condition A is that the participant is required to treat units in the FINROF as a loan relationship to which the provisions of Chapter 3 of Part 6 of CTA 2009 apply.

(3) Condition B is that the participant is required to treat units in the FINROF as a derivative contract to which the provisions of Part 7 of CTA 2009 apply.

Trading stock etc.

85R.—(1) No liability to tax arises under regulation 85M if condition A or B is met.

(2) Condition A is that the units in the fund are held as trading stock.

(3) Condition B is that the disposal of the units is taken into account in computing the profits of a trade.

Long-term insurance funds of insurance companies

85S.—(1) No liability to tax arises under regulation 85M in respect of disposals of units of an insurance company's long-term insurance fund.

(2) In paragraph (1) "insurance company" and "long-term insurance fund" have the same meaning as in section 431(2) of ICTA.

Charitable companies and charitable trusts

85T.—(1) A charitable company shall be exempt from corporation tax in respect of an income gain if the gain is applicable and is applied for charitable purposes.

(2) A charitable trust shall be exempt from income tax in respect of an income gain if the gain is applicable and is applied for charitable purposes.

(3) Paragraphs (4) and (5) apply if—

(a) property held on charitable trusts ceases to be subject to charitable trusts, and

(b) that property represents directly or indirectly an income gain.

(4) The trustees are treated as if they had disposed of and immediately reacquired that property for a consideration equal to its market value.

(5) An income gain accruing on the disposal arising under paragraph (4) is treated as an income gain not accruing to a charity.

(6) In this regulation "charity" and "charitable company" have the same meaning as in section 506 of ICTA.

CHAPTER 5

Disposal of units in FINROFs

Application of this Chapter

85U. This Chapter applies if a participant disposes of an asset and at the time of the disposal—

(a) the asset consists of units in a FINROF, or

(b) the asset consists of units in an authorised investment fund that is not a FINROF and the requirements specified in paragraph (3) of regulation 85M are met.

Disposal of an asset: the basic rule

85V.—(1) There is a disposal of an asset for the purposes of this Part if there would be a disposal of an asset for the purposes of TCGA 1992.

(2) Paragraph (1) is subject to the following regulations in this Chapter.

Provisions applicable on death

85W.—(1) Notwithstanding anything in paragraph (b) of subsection (1) of section 62 of TCGA 1992 (general provisions applicable on death: no deemed disposal by the deceased), where a person dies and the assets of which the deceased was competent to dispose at the time of death include units in a FINROF, then, for the purposes of these Regulations—

(a) immediately before the acquisition referred to in paragraph (a) of that subsection, those units shall be deemed to be disposed of by the deceased for such a consideration as is mentioned in that subsection; but

(b) nothing in this regulation affects the determination, in accordance with regulation 85U, of the question whether that deemed disposal is one to which this Chapter applies.

(2) Subject to paragraph (1), section 62 of TCGA 1992 applies for the purposes of these Regulations as it applies for the purposes of that Act, and the reference in that paragraph to the assets of which a deceased person was competent to dispose are to be construed in accordance with subsection (10) of that section.

Application of section 135 of TCGA 1992

85X.—(1) Section 135 of TCGA 1992 (exchange of securities for those in another company treated as not involving a disposal) does not apply for the purposes of this Part to the extent that—

(a) the interest in the entity that is company A for the purposes of that section that is exchanged is units in a FINROF, and

(b) the interest in the entity that is company B for those purposes that is exchanged is not units in such a fund.

(2) In a case where section 135 of TCGA 1992 would apply apart from paragraph (1), the exchange in question shall for the purposes of this Part constitute a disposal of units in the FINROF for a consideration equal to their market value at the time of the exchange.

Application of section 136 of TCGA 1992

85Y.—(1) Section 136 of TCGA 1992 (scheme of reconstruction involving issue of securities treated as exchange not involving disposal) does not apply for the purposes of this Part to the extent that—

(a) the interest in the entity that is company A for the purposes of that section that is exchanged is units in a FINROF, and

(b) the interest in the entity that is company B for those purposes that is exchanged is not units in such a fund.

(2) In a case where section 136 of TCGA 1992 would apply apart from paragraph (1), the deemed exchange in question shall for the purposes of this Part constitute a disposal of units in the FINROF for a consideration equal to their market value at the time of the deemed exchange.

CHAPTER 6

Income gains and computation of income gains

General provisions

85Z.—(1) An income gain arises to a person on the disposal of an asset if a basic gain arises on the disposal.

(2) The disposal gives rise to an income gain of an amount equal to the basic gain on the disposal.

(3) The following provisions of this Chapter explain how the basic gain is computed.

The basic gain and its computation

85Z1.—(1) In the case of a participant chargeable to income tax, the basic gain is a gain of the amount which would be the gain on that disposal for the purposes of TCGA 1992 if the gain were computed without regard to any charge to income tax arising under this Part.

(2) In the case of a participant chargeable to corporation tax, the basic gain is a gain of the amount which would be the gain on that disposal for the purposes of TCGA 1992 if the gain were computed—

(a) without regard to any charge to corporation tax arising under this Part, and

(b) without regard to any indexation allowance on the disposal under TCGA 1992.

(3) The computation of the basic gain is subject to—

(a) regulation 85W (provisions applicable on death);

(b) regulation 85X (application of section 135 of TCGA 1992);

(c) regulation 85Y (application of section 136 of TCGA 1992);

(d) regulation 85Z2 (earlier disposal to which the no gain/no loss basis applies);

(e) regulation 85Z3 (modifications of TCGA 1992); and

(f) regulation 85Z4 (losses).

Earlier disposal to which the no gain/no loss basis applies

85Z2.—(1) This regulation applies if—

(a) a participant is chargeable to corporation tax, and

(b) the amount of any chargeable gain or allowable loss which would arise on the disposal would fall to be computed in a way which, in whole or in part, would take account of the indexation allowance on an earlier disposal to which section 56(2) of TCGA 1992 (disposals on a no gain/no loss basis) applies.

(2) The basic gain on the disposal is computed as if—

(a) no indexation allowance had been available on any such earlier disposal, and

(b) subject to that, neither a gain nor a loss had arisen to the person making such an earlier disposal.

Modifications of TCGA 1992

85Z3.—(1) If the disposal forms part of a transfer to which section 162 of TCGA 1992 (roll-over relief on transfer of business) applies, the basic gain arising on the disposal is computed without regard to any deduction which falls to be made under that section in computing a chargeable gain.

(2) If the disposal is made otherwise than under a bargain at arm's length and a claim for relief is made in respect of that disposal under section 165 or 260 of TCGA 1992 (relief for gifts), the claim does not affect the computation of the basic gain arising on the disposal.

Losses

85Z4.—(1) If the effect of any computation under regulations 85Z1 to 85Z3 would be to produce a loss, the basic gain on the disposal is nil.

(2) Paragraph (1) applies notwithstanding section 16 of TCGA 1992 (losses determined in like manner as gains).

(3) Accordingly, for the purposes of these Regulations, no loss is to be treated as arising on the disposal.

CHAPTER 7

Deduction of income gains in computing chargeable gains

Scope of this Chapter

85Z5.—(1) This Chapter applies if—

(a) a disposal gives rise to an income gain, and

(b) that disposal also constitutes the disposal of the units concerned for the purposes of TCGA 1992.

(2) In this Chapter, the disposal specified in paragraph (1)(b) is called the "TCGA disposal".

Treatment of the TCGA disposal: general rules

85Z6.—(1) This regulation applies for the purposes of the computation of the chargeable gain arising on the TCGA disposal.

(2) The provisions of this regulation have effect in relation to the TCGA disposal in substitution for section 37(1) of TCGA 1992 (deduction of consideration chargeable to tax on income).

(3) In the computation of the gain arising on the TCGA disposal, a sum equal to the income gain shall be deducted from the sum which would otherwise constitute the amount or value of the consideration for the disposal.

(4) Paragraph (3) is subject to the following provisions of this Chapter.

(5) Paragraph (6) applies if the TCGA disposal is of such a nature that, by virtue of section 42 of TCGA (part disposal), an apportionment falls to be made of certain expenditure.

(6) No deduction is to be made by virtue of paragraph (3) in determining the amount or value of the consideration for the purpose of the fraction in section 42(2) of TCGA 1992.

Modification of section 162 TCGA 1992

85Z7.—(1) This regulation applies if the TCGA disposal forms part of a transfer to which section 162 of TCGA applies (roll-over relief on transfer of business in exchange wholly or partly for shares).

(2) For the purposes of subsection (4) of section 162 of TCGA 1992 (determination of the amount of the deduction from the gain on the old assets) "B" in the fraction in that subsection (the value of the whole of the consideration received by the transferor in exchange for the business) is to be taken to be what it would be if the value of the consideration other than shares so received by the transferor were reduced by an amount equal to the income gain.

Application of section 128 of TCGA 1992

85Z8.—(1) This regulation applies if there is a disposal to which this Part applies by virtue of—

(a) regulation 85X (application of section 135 of TCGA 1992), and

(b) regulation 85Y (application of section 136 of TCGA 1992).

(2) TCGA 1992 has effect as if an amount equal to the income gain to which that disposal gives rise were given (by the person making the exchange) as consideration for the new holding

(within the meaning of section 128 of that Act (consideration given or received for new holding on a reorganisation)).

CHAPTER 8

Leaving the FINROF regime

Leaving the FINROF regime

85Z9.—(1) The provisions of this Part apply to a FINROF until the date specified in an election under this regulation made by the manager.

(2) An election under this regulation must be made to HM Revenue and Customs in writing and must comply with the following provisions of this regulation.

(3) An election may only be made in respect of a FINROF if—

(a) the FINROF does not meet the investment condition—

(i) at the date specified in the election, and

(ii) at the date on which the election is made,

(b) the FINROF has been subject to this Part for at least one complete accounting period, and

(c) the fund has obtained any necessary regulatory approval of the instrument constituting the fund and the prospectus.

(4) An election under this regulation must specify the date from which this Part ceases to apply to the FINROF.

(5) But the date specified in paragraph (4) must not be earlier than the date which is 3 months before the date on which the election is made.

Requirement to notify participants when a fund leaves the FINROF regime

85Z10.—(1) If an election is made under regulation 85Z9, the legal owner must notify the participants in a fund that this Part no longer applies to the fund but continues to apply to a participant unless an election is made in accordance with regulation 85Z11.

(2) The notification under paragraph (1) must be made within a period of 3 months beginning with the date mentioned in regulation 85Z9(5).

(3) An authorised investment fund which fails to comply with this regulation is liable to a penalty not exceeding £3,000 determined in accordance with section 100 of TMA 1970.

(4) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970 apply to a penalty determined in accordance with paragraph (3).

Participant's power to elect for deemed disposal

85Z11.—(1) Notwithstanding an election made under regulation 85Z9, this Part continues to apply to a participant in a FINROF unless the participant makes an election in accordance with paragraph (2).

(2) A participant in the fund may make an election to be treated—

(a) as disposing of the units owned by the participant in the FINROF at their market value on the deemed disposal date, and

(b) as acquiring units in the authorised investment fund on the deemed disposal date.

(3) The income gain arising on the deemed disposal referred to in paragraph (2)(a) shall be determined in accordance with Chapter 6 of this Part.

(4) The acquisition referred to in paragraph (2)(b) is treated as made for a consideration equal to the consideration for the disposal referred to in paragraph (2)(a).

(5) An election may not be made under paragraph (2) unless the income gain arising on the disposal referred to in paragraph (2)(a) (determined in accordance with Chapter 6 of this Part) is greater than zero.

(6) If the participant is chargeable to income tax, the election mentioned in paragraph (2) must be made by being included in a return made for the tax year which includes the deemed disposal date.

(7) If the participant is chargeable to corporation tax, the election mentioned in paragraph (2) must be made by being included in the participant's company tax return for the accounting period which includes the deemed disposal date.

(8) In this regulation—

"company tax return" has the same meaning as in Schedule 18 to the Finance Act 1998; and

the "deemed disposal date" means the date on which, in accordance with regulation 85Z9, the fund ceases to be a FINROF.**]**

PART 7

CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS

CHAPTER 1

AMENDMENTS OF REFERENCES TO REPEALED ENACTMENTS

Introduction

86. Regulations 87 to 92—

(a) amend references in enactments to provisions repealed by section 17(1) of the Finance (No. 2) Act 2005, and

(b) make incidental, consequential and supplemental provision.

Amendments of TMA 1970

87.—(1) TMA 1970 [M22] is amended as follows.

(2) In section 98 (penalties in relation to special returns)—

(a) in subsection (4E) [M23] for "Chapter 3 of Part 12 of the principal Act" substitute " regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ".

(b) in the first column of the Table—

(i) omit the entry relating to section 468P(6) of ICTA,

(ii) omit the entry relating to regulations under section 468PB(3) of ICTA [M24], and

(iii) at the end insert—

"regulations under section 17(3) of the Finance (No. 2) Act 2005".

Marginal Citations

M22 1970 c. 9.

M23 Section 98(4E) was inserted by section 203(12) of the Finance Act 2003 (c. 14).

M24 The entries relating to section 468P(6) and to regulations under section 468PB(3) were inserted by section 203(13) of the Finance Act 2003.

Amendment of ICTA

[F190]88. . . . . . .

Textual Amendments

F190 Reg. 88 revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Amendment of TCGA 1992

89.—(1) TCGA 1992 is amended as follows.

(2) In section 99B(3) [M25] (calculation of the disposal cost of accumulation units) for "section 468H of ICTA" substitute " regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 15 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ".

Marginal Citations

M25 Section 99B was inserted by section 21 of the Finance (No. 2) Act 2005 (c. 22).

Amendment of FA 1996

90.—(1) FA 1996 [M26] is amended as follows.

(2) In paragraph 4(4) of Schedule 10 [M27] (loan relationships: company holdings in unit trusts and offshore funds) for "section 468L(3) of the Taxes Act 1988" substitute " regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ".

Marginal Citations

M26 1996 c. 8.

M27 Paragraph 4(4) of Schedule 10 was amended by paragraph 41(3) of Schedule 10 to the Finance Act 2004 (c. 12).

Amendments of ITTOIA 2005

91.—(1) ITTOIA 2005 is amended as follows.

(2) In section 373(2) (open-ended investment company interest distributions) for "subsections (6) and (7)" substitute " subsection (7) ".

(3) In section 376(2) (authorised unit trust interest distributions) for "subsections (6) and (7)" substitute " subsection (7) ".

Amendment of the Finance Act 2005

92.—(1) The Finance Act 2005 [M28] is amended as follows.

(2) In Schedule 2 (alternative finance arrangements: further provisions), omit paragraph 4.

Marginal Citations

M28 2005 c. 7.

CHAPTER 2

MODIFICATIONS OF THE TAX ACTS

Introduction

93. In their application in relation to—

(a) authorised investment funds,

(b) shareholders or unit holders in authorised investment funds, and

(c) transactions involving authorised investment funds,

the Tax Acts have effect with the modifications specified in regulations 94 to **[**[F191]96A**]**.

Textual Amendments

F191 Word in reg. 93 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **7**

[[F192]Modifications of TMA 1970

93A.—(1) TMA 1970 is modified as follows.

(2) In section 98(4E) (special returns etc.)—

(a) in paragraph (a) for "trustees of an authorised unit trust" substitute "legal owner of an authorised investment fund";

(b) in paragraph (b)—

(i) for "trustees" substitute "legal owner", and

(ii) for "do not comply" substitute "does not comply"; and

(c) in paragraph (d) for "trustees" substitute "legal owner".**]**

Textual Amendments

F192 Reg. 93A inserted (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **5**

Modifications of ICTA

94.—(1) ICTA is modified as follows.

(2) In section 402 (surrender of relief between members of groups and consortia) after subsection (3) the following subsection is treated as inserted—

"(3AA) For the purposes of this Chapter—

(a) an open-ended investment company cannot be either the surrendering company or the claimant company, and

(b) an authorised unit trust shall not be regarded as a company.".

(3) In section 413 (interpretation of Chapter 4), in subsection (2), the following definitions are treated as inserted at the appropriate places—

""authorised unit trust" has the meaning given by section 468(6);

"open-ended investment company" has the meaning given by section 468A(2);".

(4) In section 413 after subsection (3) the following subsection is treated as inserted—

"(3A) For the purposes of paragraph (a) of subsection (3) above an open-ended investment company cannot be the third company mentioned in that paragraph.".

[[F193](4A) After paragraph (b) of section 432A(1ZA) of ICTA (apportionment of income and gains), there is treated as inserted—

"(ba) income from property income distributions to which regulation 69Z15 of the Authorised Investment Funds (Tax) Regulations 2006 apply (property income distributions by an open-ended investment company."**]**

(5) In section 832 (interpretation of the Tax Acts) after subsection (2) **[**[F194]the following subsection is treated as inserted**]** —

"(2A) The definition of "ordinary share capital" does not include the issued share capital of an open-ended investment company.".

(6) In section 834 (interpretation of the Corporation Tax Acts), in subsection (3), the words " except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those Regulations " are treated as substituted for the words from "except in so far as" to the end.

(7) In Schedule 20 (charities: qualifying investments and loans) after paragraph 6 the following paragraph is treated as inserted—

"**6A.** Shares in an open-ended investment company.".

Textual Amendments

F193 Reg. 94(4A) inserted (with effect in accordance with reg. 1(2)(4) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), regs. 1(1), **28**

F194 Words in reg. 94(5) substituted (6.4.2007) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2007 (S.I. 2007/794), regs. 1(1), **6**

Modifications of FA 1996

[[F195]**95.**—(1) FA 1996 is modified as follows.

[[F196](1A) In section 297 (trading credits and debits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

"(1A) For the purposes of subsection (1) a "diversely owned AIF is treated as being party to all of its loan relationships other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) "diversely owned AIF" has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.".

(1B) In section 573 (trading debits and credits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

"(1A) For the purposes of subsection (1) a diversely owned AIF is treated as being party to all of its derivative contracts other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) "diversely owned AIF" has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.".**]**

(2) In paragraph 4 of Schedule 10 (loan relationships: collective investment schemes: company holdings in unit trusts and offshore funds)—

(a) in sub-paragraph (1)(a) the words ", open-ended investment company" are treated as inserted after the words "unit trust scheme",

(b) in sub-paragraph (1)(b) the word ", company" is treated as inserted after the word "scheme",

(c) in sub-paragraph (4) the words "or open-ended investment company" are treated as inserted after the words "authorised unit trust",

(d) in sub-paragraph (5) the words "scheme, fund or open-ended investment company" are treated as substituted for the words "scheme or fund", and

(e) the following sub-paragraph is treated as inserted at the end—

"(7) In this paragraph "open-ended investment company" has the same meaning as in sub-paragraph (7A)(b) of paragraph 8 below; and sub-paragraphs (7A) to (7D) of that paragraph apply for the purposes of this paragraph as they apply for the purposes of paragraph 8.".

(3) In paragraph 8 of Schedule 10 (loan relationships: collective investment schemes: non-qualifying investments test)—

(a) in sub-paragraph (1)—

(i) the words ", open-ended investment company" are treated as inserted after the words "unit trust scheme", and

(ii) the word ", company" is treated as inserted after the words "investments of the scheme";

(b) in sub-paragraph (2)—

(i) the words ", open-ended investment company" are treated as inserted after the words "unit trust scheme", and

(ii) the word ", company" is treated as inserted after the words "investments of the scheme".**]**

Textual Amendments

F195 Reg. 95 substituted (30.6.2008) by The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2008 (S.I. 2008/1463), regs. 1, **2**

F196 Reg. 95(1A)(1B) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **30**

Modifications of ITTOIA 2005

96.—(1) ITTOIA 2005 is modified as follows.

[[F197](1A) In the application of the provisions specified in paragraph (1B) in relation to a Property AIF and a Tax Elected Fund—

(a) for "the total" substitute "an", and

(b) the amount available for distribution as PAIF distribution (interest) or TEF distribution (non-dividend), as the case may be, shall be treated as the amount available for distribution as yearly interest.

(1B) The specified provisions are—

(a) section 373(1) (open-ended investment company interest distributions), and

(b) section 376(1) (authorised unit trust interest distributions).**]**

(2) The words " , except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those regulations " are treated as inserted at the end of each of the provisions specified in paragraph (3).

(3) The provisions specified are—

(a) section 374(1) (date when open-ended investment company interest distributions made),

(b) section **[**[F198]377(1)**]** (date when authorised unit trust interest distributions made),

(c) section 387(1) (date when open-ended investment company dividend distributions made), and

(d) section 390(1) (date when authorised unit trust dividend distributions made).

(4) In sections 375(1) (interpretation of sections 373 and 374) and 388(1) (interpretation of sections 386 and 387) the definition of "the OEIC Regulations" is treated as omitted.

(5) In those provisions, the following definitions are treated as substituted for the definitions of "open-ended investment company", "owner of shares" and "umbrella company"—

""open-ended investment company" means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 applies,

"owner of shares", in relation to an open-ended investment company, has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005, [F199]...

[F199] . . . . . ".

(6) In sections 375(3) and 388(3) the words " regulations under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 6(2) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) " are treated as substituted for the words from "Chapter 3 of Part 12 of ICTA" to the end.

Textual Amendments

F197 Reg. 96(1A)(1B) inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **31(2)**

F198 Word in reg. 96(3)(b) substituted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, **31(3)**

F199 Words in reg. 96(5) revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

[[F200]Modification of CTA 2009

96A.—(1) CTA 2009 is modified as follows.

(2) In section 490 (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights)—

(a) for subsection (2) the following subsection is treated as substituted—

"(2) The Corporation Tax Acts have effect for the accounting period in accordance with subsections (3) and (3A) as if—

(a) the relevant holding were rights under a creditor relationship of the company, and

(b) any distribution in respect of the relevant holding were not a distribution (and accordingly is within Part 5).";

(b) after subsection (3) the following subsections are treated as inserted—

"(3A) To the extent that any distribution to which subsection (2)(b) applies relates to an unfranked part of a dividend distribution—

(a) regulation 48(2)(b) of the Authorised Investment Funds (Tax) Regulations 2006 applies to determine the amount of the distribution and any tax treated as deducted from that distribution, and

(b) regulations 48A and 48B of those Regulations apply to determine the amount of any foreign income and the foreign element of the tax treated as deducted.

(3B) For the purposes of subsection (3A)—

(a) "dividend distribution" has the meaning given by regulation 22(3) of the Authorised Investment Funds (Tax) Regulations 2006, and

(b) regulation 49 of those Regulations explains how to calculate the unfranked part of the dividend distribution."; and

(c) subsections (4) and (5) are treated as omitted.**]**

Textual Amendments

F200 Reg. 96A inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **8**

CHAPTER 3

MODIFICATIONS OF TCGA 1992

Preliminary

Introduction

97. In its application in relation to—

(a) authorised investment funds,

(b) shareholders or unit holders in authorised investment funds, and

(c) transactions involving authorised investment funds

TCGA 1992 has effect with the modifications specified in regulations 98 to 110.

General

Application of TCGA 1992: general

98.—(1) TCGA 1992 has effect in relation to—

(a) open-ended investment companies,

(b) holdings in, and the assets of, such companies, and

(c) transactions involving such companies,

in like manner as the manner in which it has effect in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.

(2) References in TCGA 1992 to companies, to holdings in, and the assets of, companies and to transactions involving companies accordingly have effect (or do not have effect as the case may be) in relation to open-ended investment companies, to holdings in, and the assets of, such companies, and to transactions involving such companies, in like manner as the manner in which they have effect (or do not have effect) in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts, and to transactions for purposes connected with such trusts.

(3) This regulation has effect subject to the other modifications contained in this Chapter.

General modifications of TCGA 1992

General modifications: introduction

99. The modifications specified in regulations 100 to 104 have effect subject to the modifications specified in regulations 105 to 110.

General modification: authorised unit trust

100.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

(a) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),

(b) a unit trust scheme as denoting or including (whether expressly or by implication) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),

(c) the trustees of an authorised unit trust within sub-paragraph (a) or of a unit trust scheme within sub-paragraph (b),

have effect as if they included references to an open-ended investment company.

(2) Paragraph (1) does not apply—

(a) to references in any of the provisions specified in paragraph (3), or

(b) to references to provisions which include reference, whether made expressly or by implication, to an open-ended investment company.

(3) The provisions specified are—

(a) section 99(1) (application of Act to unit trust scheme),

F201(b) . . . . . .

(c) section 100(2) (exemption for units in unit trust scheme), and

(d) section 272(5) (valuation of rights of unit holders).

Textual Amendments

F201 Reg. 100(3)(b) omitted (8.6.2013) by virtue of The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), **14(a)** (with reg. 1(2))

General modification: manager of authorised unit trust

101.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the manager of an authorised unit trust or of a unit trust scheme within regulation 100(1)(b) have effect as if they included references to the authorised corporate director of the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

(a) to section 272(5) (valuation of rights of unit holders), or

(b) to references in provisions which include reference, whether made expressly or by implication, to the authorised corporate director of an open-ended investment company.

General modification: unit in authorised unit trust

102.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

(a) a unit or an interest in, or rights under, an authorised unit trust,

(b) a unit or an interest in, or rights under, a unit trust scheme within regulation 100(1)(b), or

(c) an entitlement to a share of, or in, the investments subject to the trusts of an authorised unit trust or a unit trust scheme within regulation 100(1)(b),

have effect as if they included references to a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

(a) to section 99(1) (application of Act to unit trust scheme),

F202(b) . . . . . .

(c) to section 272(5) (valuation of rights of unit holders), or

(d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Textual Amendments

F202 Reg. 102(2)(b) omitted (8.6.2013) by virtue of The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), **14(b)** (with reg. 1(2))

General modification: accumulation units in authorised unit trusts

103.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to accumulation units in an authorised unit trust or in a unit trust scheme within regulation 100(1)(b) have effect as if they included references to accumulation shares in an open-ended investment company.

(2) In paragraph (1) "accumulation shares in an open-ended investment company" means shares in the company in respect of which income is credited periodically to the capital part of the scheme property of the company.

General modification: holder of unit in authorised unit trust

104.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the holder of a unit within regulation 102(1) (other than references in a definition of a unit holder) have effect as if they included references to the owner of a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

(a) to section 99(1) (application of Act to unit trust scheme),

[F203](b) . . . . . .

(c) to section 272(5) (valuation of rights of unit holders), or

(d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Textual Amendments

F203 Reg. 104(2)(b) omitted (8.6.2013) by virtue of The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), **14(c)** (with reg. 1(2))

Specific modifications of TCGA 1992

Modification of section 99 of TCGA 1992

105. In section 99 of TCGA 1992 (application of Act to unit trust schemes) [M29], in subsection (2), the words " sections 99A and 99AA " are treated as substituted for "section 99A".

Marginal Citations

M29 Section 99 was relevantly amended by section 118(2) of the Finance Act 2004 (c. 12).

Insertion of section 99AA of TCGA 1992

[F204]**106.** . . . . . .

Textual Amendments

F204 Reg. 106 omitted (8.6.2013) by virtue of The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), **14(d)** (with reg. 1(2))

Modification of section 170 of TCGA 1992

107. In section 170 of TCGA 1992 (groups of companies: interpretation), after subsection (4), the following subsection is treated as inserted—

"(4A) An open-ended investment company cannot be the principal company of a group.".

Modifications of section 272 of TCGA 1992

108.—(1) Section 272 of TCGA 1992 (valuation: general) is modified as follows.

[F205](2) . . . . . .

(3) After subsection (5) the following subsection is treated as inserted—

"(5AA) In this Act "market value" in relation to shares of a given class in an open-ended investment company the prices of which are published regularly by the authorised corporate director of that company (whether or not those shares are also quoted in The Stock Exchange Daily Official List) shall mean an amount equal to the price so published on the relevant date, or if no price was published on that date, on the latest date before that date.".

Textual Amendments

F205 Reg. 108(2) omitted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by virtue of The Market Value of Shares, Securities and Strips Regulations 2015 (S.I. 2015/616), regs. 1(1), **4** (with reg. 2(2))

Modifications of section 288 of TCGA 1992

109.—(1) Section 288 of TCGA 1992 (interpretation) [M30] is modified as follows.

(2) In subsection (1)—

[F206](a) . . . . . .

(b) the following definitions are treated as inserted at the appropriate places in alphabetical order—

""authorised corporate director" has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));"

""open-ended investment company" has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 4 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));"

""owner of shares" has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));".

Textual Amendments

F206 Reg. 109(2)(a) and word omitted (8.6.2013) by virtue of The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), **14(e)** (with reg. 1(2))

Marginal Citations

M30 Section 288 was relevantly amended by section 118(4) of the Finance Act 2004.

Modification of Schedule A1 to TCGA 1992

110. In Schedule A1 to TCGA 1992 (application of taper relief), in paragraph 16(2) (special rules for postponed gains) [M31], at the end of paragraph (f) the word " , or " is treated as added and the following paragraph is then also treated as added—

"(g) regulations 67(4) and 68(4) of the Authorised Investment Funds (Tax) Regulations 2006.".

Marginal Citations

M31 Schedule A1 was inserted by Schedule 20 to the Finance Act 1998 (c. 36).

PART 8

FINAL PROVISIONS

Instruments revoked

111. The following statutory instruments are revoked—

The Open-ended Investment Companies (Tax) Regulations 1997 [M32];

The Open-ended Investment Companies (Tax) (Amendment) Regulations 1997 [M33];

The Open-ended Investment Companies (Tax) (Amendment) Regulations 2002 [M34];

The Open-ended Investment Companies (Tax) (Amendment) Regulations 2003 [M35].

Marginal Citations

M32 S.I. 1997/1154.
M33 S.I. 1997/1715.
M34 S.I. 2002/1973.
M35 S.I. 2003/1831.

Gillian Merron
Joan Ryan
Two of the Lords Commissioners of Her Majesty's Treasury

Changes to legislation:
There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006.