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STATUTORY INSTRUMENTS

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**2006 No. 964**

**The Authorised Investment Funds (Tax) Regulations 2006**

[<sup>F1</sup>PART 4A

PROPERTY AIFS

CHAPTER 2

ENTRY INTO AND MEMBERSHIP OF THE PROPERTY AIF REGIME

*[<sup>F1</sup>The notification condition*

**Textual Amendments**

**F1** Pt. 4A inserted (6.4.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2008 \(S.I. 2008/705\)](#), regs. 1, 5

**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 [<sup>F2</sup>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

- F2** 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 [\[<sup>F3</sup>9B\]](#), 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 [\[<sup>F4</sup>9B\]](#), 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

- F3** 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)**

- F4** 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 [<sup>F5</sup>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 [<sup>F6</sup>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 [<sup>F7</sup>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 <sup>F8</sup>... prospectus <sup>F9</sup>... ;
  - (c) a copy of the application to the [<sup>F10</sup>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

- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**

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**Changes to legislation:** There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, Cross Heading: The notification condition. (See end of Document for details)

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- F9** 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)**
- F10** 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)**

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