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STATUTORY INSTRUMENTS

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**2006 No. 964**

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

[<sup>F1</sup>PART 6A

FUNDS INVESTING IN NON-REPORTING OFFSHORE FUNDS

[<sup>F1</sup>CHAPTER 8

Leaving the FINROF regime

**Textual Amendments**

- F1** 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)

**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.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER 8.