
STATUTORY INSTRUMENTS

2009 No. 3001

The Offshore Funds (Tax) Regulations 2009

PART 3

**REPORTING FUNDS AND THE TREATMENT
OF PARTICIPANTS IN REPORTING FUNDS**

CHAPTER 2

ENTRY INTO THE REPORTING FUND REGIME

Applications for this Part to apply

Contents of an application

53.—(1) An application must include the following—

- (a) a statement of the first period of account for which it is proposed that this Part should apply to the fund;
- (b) an undertaking that no period of account will exceed 18 months;
- (c) a statement whether or not the fund intends to prepare its accounts in accordance with international accounting standards, and, if it does not, a statement of which generally accepted accounting practice it intends to use;
- (d) in a case in which the fund does not intend to prepare its accounts in accordance with international accounting standards, a statement specifying the entries in the fund's accounts that are considered to equate to “total comprehensive income for the period” as that expression is used in international accounting standards;
- (e) in a case in which the fund does not intend to prepare its accounts in accordance with international accounting standards, a statement specifying how the fund intends—
 - (i) to comply with regulation 66(1)(b), or
 - (ii) to calculate the adjustment required by regulation 66(2);
- (f) an undertaking to meet the requirements relating to reports to participants in the fund (see Chapter 7);
- (g) an undertaking to meet the requirements relating to the provision of information to HMRC (see Chapter 9).
- [^{F1}](h) a statement whether or not the fund intends to operate equalisation arrangements;
 - (i) in a case in which the fund does intend to operate equalisation arrangements, a statement whether or not the fund intends to operate full equalisation arrangements;
 - (j) in a case in which the fund does not intend to operate equalisation arrangements, a statement specifying whether or not the fund intends to make income adjustments in a reporting period;

- (k) in a case in which the fund intends to make income adjustments in a reporting period, a statement specifying—
- (i) whether the fund intends to make those adjustments on the basis of [^{F2}reportable income] (see [^{F3}regulation 72A]) or on the basis of accounting income (see [^{F4}regulation 72B]), and
 - (ii) the length of the computation period (see [^{F5}regulation 72C]);
- (l) in a case in which the fund intends to make income adjustments in a reporting period on the basis of accounting income—
- (i) a statement by the fund manager specifying how the accounting income is to be determined,
 - (ii) a statement by the fund manager that, on the basis of this determination, it is reasonable to expect that the difference between the amount of [^{F6}reportable income] per unit calculated using this method and the amount of [^{F6}reportable income] per unit calculated on the basis of [^{F6}reportable income] will be 10% or less of the latter of those amounts, and
 - (iii) an undertaking by the manager to meet the requirements relating to alternative income adjustments and notice to HMRC (see [^{F7}regulation 72B(6)]).]
- (2) An existing fund application must be accompanied by the prospectus.
- (3) A future fund application must be accompanied by the proposed prospectus.
- (4) The application must be in English.
- (5) If the prospectus or the proposed prospectus (as the case may be) is not in English, it must be accompanied by an English translation.
- (6) In the case of an offshore fund constituted in the manner described in regulation 5 or 6, the requirements of this regulation may be met by providing material which is—
- (a) applicable to an entity which includes the fund, and
 - (b) relevant for the application for this Part to apply to the fund.

F1	Reg. 53(1)(h)-(l) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211) , regs. 1(1), 6
F2	Words in reg. 53(1)(k)(i) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(a) (with reg. 1(3)(4))
F3	Words in reg. 53(1)(k)(i) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(b) (with reg. 1(3)(4))
F4	Words in reg. 53(1)(k)(i) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(c) (with reg. 1(3)(4))
F5	Words in reg. 53(1)(k)(ii) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(d) (with reg. 1(3)(4))
F6	Words in reg. 53(1)(l)(ii) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(a) (with reg. 1(3)(4))
F7	Words in reg. 53(1)(l)(iii) substituted (28.6.2013) by The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411) , regs. 1(1), 3(e) (with reg. 1(3)(4))

Changes to legislation:

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Section 53.