

Making a difference: delivering the review of links with large business

March 2007

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delivering the review of links
with large business**

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CONTENTS

		Page
Chapter 1	Executive Summary	3
Chapter 2	Outline delivery plan	7
Chapter 3	HMRC approach to compliance risk management for large business	15
Chapter 4	HMRC consultation framework	17
Chapter 5	Programme of guidance improvements	23
Chapter 6	Enhanced clearance process and summary table of statutory clearances	27

EXECUTIVE SUMMARY

1.1 The 2006 Review of Links with Large Business focused on outcomes designed to improve the attractiveness of the UK business tax administrative environment. Consultation and transparent dialogue with business will help to ensure that HMRC is a modern, responsive organisation that promotes a responsible attitude to business taxation.

1.2 Delivery of the review proposals will provide certainty on the tax outcome of commercial transactions and inward investment to the UK, transparency of administrative processes, fair treatment of all customers according to their compliance risk profile, and speed and clarity of resolution in those areas that necessitate greater HMRC intervention.

1.3 On 17 November 2006, HMRC made a commitment to deliver all the proposals contained in the Review. In particular, we made a commitment to publish an outline delivery plan before the end of March, alongside delivery of certain early proposals. We are today delivering on that commitment.

1.4 The development of these new processes and a clear accountability for delivery will not only enhance the relationship between HMRC and its large business customers, but also enhance the capability of HMRC in meeting its overall objectives.

1.5 We want business to notice the difference: we will demonstrate clear and tangible improvements to the administration of the UK's tax system, deliver our Departmental objectives more efficiently, and improve our customers' experience of dealing with us. We will compile quantitative and qualitative performance measures, and we will make a positive impact on the administrative burden targets, particularly for those businesses that are low risk.

1.6 Those proposals which contain key deliverables for Budget 07 are set out below. Updates on delivery of all 14 proposals are detailed in Chapter 2.

Delivery of an efficient risk based approach

HMRC today announces a compliance risk assessment framework for business and employer taxes that defines HMRC's understanding of risk and its approach to risk management.

Review proposals 4 and 6

1.7 This signals HMRC's commitment to focusing resources on the greatest risks associated with large business tax compliance, whether these result from tax complexity, from corporate governance or from attitudes to compliance. HMRC will address these risks more quickly and effectively, agreeing action plans with customers to resolve risks directly, and support customers to become low risk. We will significantly reduce HMRC compliance interventions with low risk customers, who should not expect the full risk assessment process for two or three years, or even longer in some cases. (Chapter 3). Consequently, these businesses will have reduced costs of tax compliance and greater certainty about how HMRC will handle their tax affairs.

Delivery of clarity through effective consultation

HMRC today announces a consultation framework that commits HMRC to incorporating the business perspective in all significant aspects of HMRC's work that has a direct effect on business.

Review proposal 9

1.8 The framework (Chapter 4) sets out a clear process for both formal and informal consultation and provides guidance on the most appropriate method of consultation to ensure proper engagement with business. The framework will ensure that HMRC consults early and often, giving time for broad participation from business, and allowing for feedback on how the consultation contributed to the development of the final product.

HMRC believes that listening to and discussing emerging issues with our customers will lead to the better design and delivery of the taxes and duties for which we are responsible and better compliance. In turn, this leads to lower costs for both customers and HMRC. **We are committed to improving the way we do things by putting the customer at the heart of everything we do.** Effective consultation with our customers plays a critical part in delivering that ambition.

HMRC has today published a programme of updates and improvements to HMRC guidance focusing on the components that large business have advised are the most relevant to them.

Review proposal 10

1.9 The publication at Chapter 5 represents a 'living document' that will be updated in continuing consultation with business as part of a rolling programme of improvements. This ambitious programme will provide greater clarity on HMRC's likely interpretation of the more complex legislation, and clarity on the associated processes. Clear guidance will give business early certainty, and ensure that the resource cost of engaging with HMRC remains focused on areas of genuine uncertainty.

Delivery of certainty

HMRC today announces:

Formal consultation in summer 2007 on the new clearance process and advance rulings

The extension of advance clearance applications for Substantial Shareholdings Exemption (SSE) and Stamp Duty Land Tax (SDLT)

Review proposal 2

1.10 This will, from 1 June 2007 (SSE) and from Finance Act 2007 (SDLT), effectively remove the time limit of four Finance Acts from Code of Practice 10 applications in these two areas of legislation. Representations from large business have shown that these two specific areas of tax law still generate significant uncertainties and would be ideal for early extension of the current clearance procedure (Chapter 6).

We will be working with business to manage the development of the new advance rulings and clearances processes to ensure that they represent a significant enhancement to the service we provide.

HMRC has today published a summary table of the statutory clearances and rulings available to business and relevant contact details in each case.

**Review
proposal 3**

1.11 The table in Chapter 6 brings together and updates existing information on the internet, providing greater clarity and transparency on the underlying processes. HMRC will ensure that this information remains user friendly, that the specialist teams are accessible, and that business continues to benefit from the increased certainty that these advance agreements provide.

IMPACT ON ADMINISTRATIVE BURDENS

1.12 In November 2005 HMRC published a shared vision of a future where business will provide information only once, spend less time dealing with inspections and enjoy a single point of contact. At Budget 06, the Chancellor announced challenging targets to reduce the administrative burden on business by 2010-11¹. Delivery on these ambitions will be significantly advanced by this programme of change.

DELIVERY OF THE WIDER PROGRAMME

1.13 We have set out in Chapter 2 a summary of progress on all 14 proposals. Whilst much work remains to be done **we will demonstrate that we are on track to deliver the programme** and therefore contribute to a significant improvement in the business tax environment.

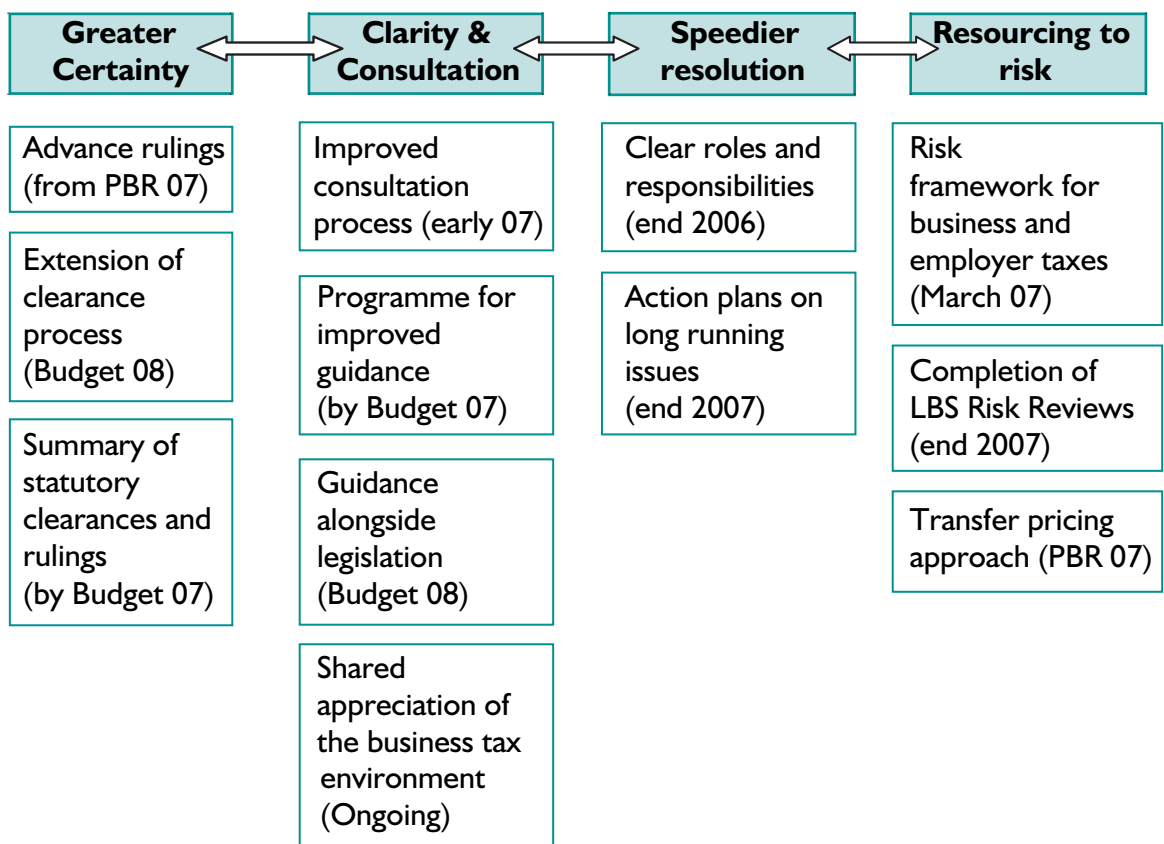
¹ Delivering a new relationship with business

2

OUTLINE DELIVERY PLAN



Delivered through



Proposal 1 – Advance rulings

Commitment: From Pre-Budget Report 2007 a system of advance rulings will give UK and international business certainty about the tax consequences of significant investments and corporate reconstructions

Delivery We will offer a **single point of contact that will provide binding rulings** across all relevant taxes to large businesses that provide clear plans for investment, reconstructions and reorganisations.

We expect this to lead to a **significant improvement in certainty** available to the largest businesses. This in turn relies on significant changes in the way HMRC and business work with each other in an atmosphere of trust and transparency, which will take time to develop.

We have begun to discuss informally with businesses how this service can best support their needs and the circumstances in which it should be available, taking into account the economic importance of these activities. We will be consulting formally in early summer 2007

Proposal 2 – Extension of the current clearance procedures

Proposal 3 – Clarity on current statutory clearances and rulings

Commitment: The extension of existing clearances procedures so that HMRC will provide business with their view of the tax consequences across all relevant taxes of significant commercial issues wherever there is uncertainty regardless of when legislation was enacted, by Budget 2008.

Commitment: By Budget 2007, to publish in one place on the HMRC website, details of the various statutory rulings and clearances available to business including relevant contacts.

Delivery HMRC today announces the **extension of clearance work** where there is genuine uncertainty regarding the interpretation of tax legislation (without time limit) in two particular areas of tax law:

- Stamp duty land tax from Royal Assent of Finance Act 2007; and
- Substantial Shareholding Exemption from 01 June 2007.

HMRC will also be using this opportunity to test the feasibility of a new model for dealing with clearances related to the Substantial Shareholding Exemption.

We will conduct formal consultation during summer 2007, to ensure that the clearance process as finally implemented adds value for all participants.

HMRC also today publishes a **table of statutory clearances and relevant contacts** (Chapter 6). This table updates existing information on the internet.

Proposal 4 and 6 – Risk management of business and employer taxes.

Commitment: The implementation of an efficient risk-based approach for business taxes. To publish a framework by which we will focus our resources on the greatest risks associated with large business tax compliance. We will deal with these more quickly and effectively while significantly reducing our interventions with low risk customers. To develop, in consultation with business, a risk based approach to undertaking employer compliance reviews that is forward looking, based on system and control testing and facilitates a swifter resolution of issues.

Delivery HMRC today publishes a document “HMRC approach to compliance risk management for large business”² that sets out our risk-based approach to large business customers, including our risk assessment framework and in particular what this will mean for businesses that are low risk. (Chapter 3)

This signals the **commitment to focus HMRC’s resources on the greatest risks associated with large business tax compliance.** We will deal with these more quickly and effectively while significantly reducing our interventions with low risk customers. The document therefore builds on the 2006 Budget Report which set a target of reducing the administrative burden on all compliant businesses of dealing with HMRC’s audits and inspections by 10% over 3 years, and at least 15% over 5 years.

At the heart of HMRC’s approach is our belief that the majority of our customers want to pay the right amount of tax at the right time. Our aim is to work closely with our customers to understand better how they manage their tax risks. Wherever possible we want to rely on customers’ own understanding of how the law applies to their business, and on their own systems and governance.

Proposal 5 – New timetables for transfer pricing enquiries

Commitment: A comprehensive approach to the settlement of transfer pricing enquiries, based on guidance to be developed with business and published by the end of 2007 so that, subsequently, matters will be settled within 18 months as the norm. This is a significantly shorter timeframe than is currently the case.

Delivery Consultations have begun with businesses and representative bodies about the shape and significant details of a new project-managed approach to transfer pricing enquiries that will be published before the end of 2007. More specific proposals will be put out for formal consultation over the summer.

Where businesses and HMRC work in co-operation on this approach, the administrative costs of complying with transfer pricing rules will be reduced and any enquiries will be concluded more rapidly than at present. We are also reviewing existing cases to identify where this approach can assist in their conclusion.

² <http://www.hmrc.gov.uk/budget2007/large-business-riskman.pdf>

Proposal 7 – Managing relationships and resolution of issues

Commitment: To make it clear how contentious issues will be resolved for all large businesses – publishing details of roles and responsibilities of CRMs and Sector Leaders in the LBS and client management in Local Compliance - and developing and publicising clear routes for resolution of issues across LBS and Local Compliance

Delivery HMRC recognises that the relationships with its large business customers need to be managed effectively.

At 31 December 2006 the LBS published “The Roles and Responsibilities of its Client Relationship Managers and Sector Leaders” which set out clear routes for the resolution of contentious issues. **Our large business customers now have a clear route for dealing with those issues that fall beyond the remit of the CRM.**

The Local Compliance business unit, who deal with the remaining proportion of our large business customers, are currently consulting on the most appropriate model for client relationship management, according to the needs and views of these customers. We will publish the outcome of these early discussions and our emerging plans by 30 June 2007.

Proposal 8 – Resolution of historic issues

Commitment: Senior operational management taking responsibility for the active management of enquiries unsettled after 18 months. HMRC recognises that it must resolve contentious issues professionally and quickly.

Delivery We will draw up clear and transparent action plans and agree them with business and their intermediaries at the point at which we determine that there is a risk that needs to be addressed. **Each risk and its subsequent intervention will therefore be project managed actively from the outset.**

Senior managers will take responsibility for managing risks that are not resolved within 18 months. We are currently working across HMRC to ensure that we develop action plans that can be delivered in a co-ordinated and consistent manner. We will be consulting with business on our emerging plans in the early summer.

Proposal 9 – A new consultation framework

Commitment: Ongoing dialogue and consultation to ensure the business perspective is taken into account in all significant aspects of HMRC’s work that has a direct effect on business

A consistent approach to informal and formal consultation with clear accountabilities and parameters will ensure the business perspective is taken into account as the norm. A Consultation Framework will be published by early 2007 to contribute to a more certain administrative framework within which business can thrive.

Delivery HMRC has today published a Consultation Framework (Chapter 4). **This framework is designed to identify good practice for consultation and lead to more effective engagement with our customers and their representatives.**

Consultation with our customers is an important part of putting the customer at the heart of everything we do. We believe that listening to, discussing, and if at all possible acting on the views of our customers will lead to better design and delivery of the taxes and duties for which we are responsible – and better compliance.

The framework ensures that we **routinely consult to a consistently high standard** with customers on any measures which impact on them. We will involve customers early, consult as widely as possible with those affected, allow sufficient time for customers to respond and then provide feedback on how contributions are to be taken forward.

Proposals 10 & 11 – Improving our guidance

Commitment: Introduction of a programme, agreed with business, to revise and update guidance of relevance to large business. Details of the programme and timetable will be published at Budget 07. Working alongside business, guidance will be updated to reflect changes in legislation and evolving commercial circumstances, and will include relevant examples to illustrate HMRC’s view.

From Budget 2008 all HMRC guidance on new legislation will be developed in conjunction with business and issued alongside legislation. This will ensure that the resulting guidance is clear and can be understood by business, and business will be able to see how the legislation will impact them.

HMRC has today published an agreed programme of improvements to the HMRC guidance most relevant to large business (Chapter 5). This will be a living document, which will be updated in consultation with business as the programme develops.

Alongside this, we have started to discuss how to build earlier involvement with business into the process of developing legislation. Earlier consultation will help us to focus on the practicalities of implementation and should enable us to be **aligned more closely with standard business procedures and commercial practice**. Business will therefore have a much better understanding of the impact on them.

During 2007 we will explore the preparation of new guidance alongside the development of new legislation, and implement proposals to ensure its continued relevance and accessibility.

Proposals 12 and 14 – Engaging with business and research bodies, and feedback mechanisms

Commitment: Develop a better shared understanding of the contribution of the UK tax system to the overall attractiveness of the UK as a place to do business.

To consult with large business during 2007 to develop structured ways of getting thorough, honest feedback on their relationship with HMRC and how it could be improved, determine how the feedback will be used to improve performance and change behaviours, and assess how this can become a two-way process so that HMRC is also able to feedback experiences to business.

Delivery A project has been started to address the information-gathering needs of these two proposals together, to provide a baseline from which improvements can be measured.

An independent research contractor has been appointed to obtain thorough, honest feedback on large business' relationship with HMRC. It will also collect information to improve our understanding of the UK tax system's contribution to the overall attractiveness of the UK as a place to do business.

This work will be followed by the design and implementation of internal systems and processes to improve performance and change behaviours in HMRC and to assess how this can become a two-way process enabling us to feedback our experiences to business.

Proposal 13 – Professional skills and commercial understanding

Commitment: Re-invigorating HMRC's technical training programme during 2007 and supporting this with a programme to equip HMRC tax staff with the range of skills and competencies needed to deal confidently with complex matters of relevance to large businesses and empowering them to do their job. This will include a greater emphasis on joint training with the private sector.

To work with private sector to develop a programme of joint training, seminars, mentoring and secondments to strengthen commercial understanding of staff.

Delivery We are introducing 5 days mandatory Continuous Professional Development for all tax professionals from 1 April 2007, to **raise professional standards and commercial understanding across existing HMRC staff**. We are also improving our qualifications framework for new entrants to ensure HMRC tax staff have the knowledge and skills to perform their job to a high standard.

We will be consulting over the summer to understand better how businesses embed values, behaviours and expectations amongst their staff, and how the desired behaviours are measured and rewarded.

Private sector engagement will be key to raising commercial understanding within HMRC. We are in discussions with our internal and external stakeholders to identify the most effective ways of progressing this and welcome the active participation of businesses in taking this work forward

2006 REVIEW OF LINKS WITH LARGE BUSINESS: KEY ACTIVITIES AND TIMESCALES

	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07
Programme level	Project teams formed and governance set in place		Publish outline delivery plan	Initiate programme of culture realignment with HR.		Operational and regulatory impact assessments, including impact on the admin burden						
Support, coordinate and challenge project teams to ensure delivery of the four key themes												
1. Advance Rulings	Determine statutory position.	Research likely usage, and scope plans	Draft plans and internal consultation			External consultation		Finalise plans and draft guidance for publication		Implement PBR07		
2. Clearances	Internal research and base lining		Engagement with internal stakeholders	Draft plans	External consultation		Finalise plans and draft guidance for publication		Implement Budget 08			
3. Clearances summary	Internal research to identify		Publish Budget 07									
4. Risk Assessment	Internal consultation to form plans	External consultation and finalise plans	Publish Budget 07	Working group set up to take forward implementation in LBS. Working group to consult and develop the implications for LC. Ongoing consultation with Large Businesses and advisors.						Roll out in LBS and LC		
5. Transfer Pricing	Initial consultation on plans alongside engagement with key internal stakeholders			Evaluation of initial views and establishment of baseline of current position.		Formal consultation on draft of new approach and operational impact assessment.			Publish PBR07			
6. Risk based employer compliance reviews	Internal research and base lining	External consultation and finalise plans	Publish Budget 07	Publication. Skills analysis and resource deployment of current EC staff		Employment risk steering group set up. Roll out across LBS and LC		Assurance review				
7. Escalation routes	Working group set up. Draft plans - internal and external consultation		Finalise plans	Formal external consultation, and LC to publish plans by June 07		Engagement with key internal stakeholders, and set systems in place to roll out			Publication and roll out Publish 31 December			
8. Resolution of historic issues	Draft plans, internal consultation and research			External consultation, alongside development of action plan for roll out and staff training				Roll out Implement 31 December				
9. Consultation	Draft framework	Consultation	Publish Budget 07									
10. Guidance update	Mapping existing guidance relevant to large business. Informal internal and external consultation		Publish Budget 07	Track and update published improvement programme. Engagement with internal stakeholders, including IMS and web redesign team to resolve IT issues						Publish PBR07		
11. Better Guidance	Pilot exercise linked to Budget 07. Informal internal and external consultation. Development of new process to bring forward consultation with large business for new legislation. Engagement with internal stakeholders, including IMS and web redesign team to resolve IT issues					Rollout			Implement Budget 08			
12. Engaging with business and research bodies	Scoping project requirements		Formal research and base lining UK competitiveness			Share understanding internally and externally		Develop process for continuous evaluation Ongoing implementation				
13a. Skills & Competences/ training	Research and baseline current position		Draft plans and external consultation			Development of new training interventions		Roll out	Implement 31 December			
13b. Commercial awareness	Internal consultation and scoping		External consultation	Development of products and pilot exercises				Develop knowledge sharing mechanisms	Roll out and evaluation	Implement 31 December		
14. Feedback mechanisms	External research to baseline current customer experience				Identify actions needed to effect improvements and develop feedback mechanism in consultation with business				Roll out Implement 31 December			

3

HMRC APPROACH TO COMPLIANCE RISK MANAGEMENT FOR LARGE BUSINESS

3.1 In a paper published today³ HMRC sets out, in response to proposals 4 and 6, its approach to compliance risk management for large business as a key part of its strategy for supporting UK business as a whole. It describes

- what we mean by tax risk and the criteria and information we use to assess it;
- the process by which we conduct and agree risk assessments for large business customers; and
- how, in future, we will vary our activities more clearly in response to risk, significantly reducing the number of checks and enquiries for low risk customers and increasing the intensity and effectiveness of our interventions for high risk customers.

3.2 At the heart of our approach is the belief that the majority of our customers want to pay the right amount of tax at the right time. This means that our large business customers have the same core objective in managing tax risk as HMRC – to ensure compliance with the law. This is usually complex and requires considerable investment in systems and governance. Our aim is to work closely with our customers to understand better how they manage their tax risks within the wider commercial context in which they operate. Wherever possible, we want to rely on customers' own understanding of how the law applies to their business, and on their own systems and governance.

3.3 Where we believe that a customer is not managing tax risks adequately, or is repeatedly pushing at the boundary of the law, we will intervene quickly and intensively. We will aim to work in partnership with our customers to help them manage and reduce their tax risks.

3.4 However, where we believe that a customer is low risk, we do not want to second-guess their decision-making.

3.5 This approach is consistent with the Government's wider approach to better regulation. The 2005 Hampton report set out a vision for a risk-based approach designed to focus efforts on the highest risks, thereby reducing administrative burdens. It also builds on the 2006 Budget Report which set a target of reducing the administrative burden on all compliant businesses of dealing with HMRC's audits and inspections by 10% over 3 years and at least 15% over 5 years.

3.6 Other proposals from the Review of Links also focus on improving the customer experience by increasing certainty and helping businesses to comply. By building on previous successful initiatives, and seeking to address areas where we have placed unnecessary demands on our customers in the past (including the unfocused employer compliance reviews singled out by the Review of Links), our approach is driven by the overriding principle that the UK should be an attractive environment for business.

³ <http://www.hmrc.gov.uk/budget2007/large-business-riskman.pdf>

Key messages

Low risk customers:

- Risk reviews only every 2 to 3 years, or longer
- Far fewer interventions
- Increased clarity and certainty through real-time working
- Reduced compliance costs

Higher risk customers:

- At least annual risk reviews
- Increased emphasis on significant risk
- More real-time working and speedier resolution
- Partnership working and support to reduce risk

3.7 This represents a significant change in the way that HMRC operates. It will take time on all sides to respond to the many challenges ahead, understand the new principles and implement them effectively. It will only work if we can build a relationship of trust and openness with our large business customers. HMRC is committed to an open dialogue about our approach to risk assessment, and to providing greater clarity and certainty through the systems of rulings and clearances recommended in the Review of Links. In return we will expect transparency from our business customers about their approach to tax risk management and disclosure of any areas of legal uncertainty.

3.8 HMRC will, in line with the proposals of the Review of Links, implement the approach described in this paper by December 2007 for the largest UK businesses managed by HMRC's Large Business Service. For other large businesses the principles in this approach will be rolled out over the next 18 months. In the meantime, we will continue to consult with customers, their advisers and other relevant stakeholders as we seek to enhance and develop the framework. We are grateful for the input many have already provided.

4

HMRC CONSULTATION FRAMEWORK

HMRC CONSULTATION FRAMEWORK

4.1 This framework is intended to complement the Cabinet Office Code of Practice on Consultation which HMRC applies in all its formal UK public consultations. It aims to ensure HMRC will consult early and often, giving time for as broad participation as possible. It covers both formal and informal consultation on areas of operational policy, administrative processes and legislation.

What we aim to achieve through effective consultation

4.2 Businesses, individuals, employers, agents, IT specialists, representative and voluntary bodies all play vital roles in ensuring HMRC legislation and administrative systems operate effectively. HMRC wants to improve its design and administration of these systems by putting our customers at the heart of everything we do. Consultation is an important part of partnership working. HMRC believes that listening to, discussing and if at all possible acting on the views of our customers will lead to better design, delivery and take up of our services. That in turn will lead to lower costs for customers and HMRC and to better compliance.

What do we mean by consultation?

4.3 In the context of this framework consultation is taken to mean the routes through which HMRC obtains the views of interested parties when significant changes to operational policy, legislation and administrative processes are being planned. Consultation is a two way process – it allows HMRC to test new proposals and our customers to highlight current issues and suggest new ideas. It relies on a mutual obligation and understanding of the process of government.

4.4 By setting out the recognised routes through which consultation can take place, and the standards HMRC commits to in conducting a meaningful dialogue, this framework should encourage greater openness, trust and partnership working.

Recognised consultation routes

4.5 This framework covers the following recognised consultation routes:

- Formal UK Public Consultation under the Cabinet Office Code of Practice
- Written Consultation not under the Cabinet Office Code of Practice
- Consultation Forums – can be standing forums as listed on HMRC internet or created specifically for the proposed changes
- Open Days/ Road Shows
- Deliberative research events
- Workshops – both regional and metropolitan
- Focus Groups
- User Panels

- Meetings with representative bodies and business experts
- Confidential Discussions

Which route should be used?

4.6 Ministers will, of course, retain their existing discretion on whether and how to consult, but subject to that:

- In areas where major change is planned which will have a significant impact on customers, HMRC will undertake a formal UK Public Consultation following the Cabinet Office Code of Practice.
- For less formal consultation, the decision as to which routes to adopt will lie with the business unit responsible for developing the change proposal.
- HMRC will always consider consultation when planning any legislative change and advise Ministers on all consultations options with a presumption in favour of formal public consultation.
- In areas of significant change where Budget, legislative or operational timetables prevent a full 12 week consultation, a public written consultation with a shorter period will be considered in preference to less formal routes.
- In relation to anti-avoidance, the presumption is to recommend consultation except where there are significant risks which make consultation undesirable and these risks cannot be managed.
- Where there are a limited number of stakeholders affected written consultation with a targeted group of stakeholders will be considered.
- The needs of those likely to be affected by the change and the best means of engaging them in a meaningful dialogue will be taken into account when deciding which routes to adopt.

Planning for effective consultation

4.7 In planning consultations HMRC will consider the following questions:

- **What type** of consultation will bring best engagement?
- **Who** should be consulted?
- **How** – what information do I need?
- **When** – what is the timescale available?
- **How** will feedback be given?
- **What** will be the next steps?

What type **4.8** HMRC will follow the key principles set out in this framework to ensure consultation routes are used that are accessible. Where appropriate HMRC will start early informal consultation, to aid understanding of potential issues, and use this to inform later formal or informal consultations.

- Who 4.9** HMRC will identify the key stakeholders in the proposed activity, ensure they are included in the consultation and that an appropriate weight is attached to their representation. On significant issues stakeholder meetings and workshops for key stakeholders will be run alongside formal written consultation.
- How 4.10** HMRC will ask focused questions and be clear about the area in which views are being sought. Any assumptions made will be clearly stated.
- When 4.11** Both formal and informal consultation should be for as long as either possible or agreed. Written consultations will aim for at least 12 weeks to ensure sufficient time for considered responses.
- Feedback 4.12** Where possible prompt and full feedback will be given. This will encourage future participants by providing recognition that all responses have been properly considered. Where full feedback is not possible feedback communicating what is going to be done as a result should be made in good time.

Ensuring proper engagement

4.13 There is no right method to reach a target audience but clearly the type of route adopted will influence who can and cannot take part in any consultation. Whenever possible, more than one route will be chosen to ensure as many different types of stakeholders as possible have the opportunity to make their views known.

4.14 Formal UK Public Consultation gives everyone a chance to contribute. Where informal consultation routes are adopted HMRC are committed to including as broad a range of stakeholders as time and circumstances permit.

4.15 Standing Consultation Groups – Membership of these groups is voluntary and HMRC are committed to ensuring that membership is sufficient to ensure the group can carry out its aims. The HMRC chair of all Standing Consultation Groups has the final decision as to representation. Representative bodies, once included as members, will decide who will act as their representative. All such groups will review both the Terms of Reference and membership every two years, or more often if required, to encourage participation and inclusivity.

4.16 Other Groups and meetings will be held at the discretion of the change owner who will identify interested parties. The subject matter, level of change being proposed, and timetable for change will all have a bearing who is asked to contribute. HMRC are committed to obtaining as broad a range of views as practicable.

Extending consultation when there are issues of confidentiality

4.17 Where risks in consulting are identified which mean confidentiality takes precedence over transparency, HMRC will work on the principle of starting or extending consultation to maximise participation as identified risks decrease. It is recognised that consultation is more effective if it is not conducted on a limited basis but includes all stakeholders.

Making best use of limited resources

4.18 Conscious that time given to participate in consultation is voluntary, and often on top of other commitments, HMRC are keen to engage with stakeholders to ensure we make best use of limited resources by:

- Looking to work with stakeholders to set priorities as to which changes require consultation and which do not;
- Ensuring as early engagement as possible to allow trust and meaningful dialogue to build over time;
- Appreciating the need for the recommended 12 week timetable if representatives are to properly canvass their members for views;
- Listening to concerns about duplication of effort and taking steps to deliver consultations on connected areas in a joined up way. In doing this, it is better to use existing forums than set up new structures to minimise the time demands on customers.

Cabinet Office Code of Practice

4.19 Where the Cabinet Office Code of Practice applies HMRC will:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once or indicate why this timescale could not be met.
- Be clear about what the proposal for change indicating, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that the consultation document is clear concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the outcome.
- Ensure the consultation is effective through the use of HMRC's designated consultation co-ordinator.
- Ensure the consultation follows better regulation best practice, including carrying out a Regulatory or Operational Impact Assessment, if appropriate.

Informal Consultation

4.20 When informal consultation routes are undertaken the following key principles will be adopted:

- Planning and consultation should start early, before key decisions are made
- There should be clarity about what areas are open to change and what are not
- Information will be made available to those most affected
- Maximum participation will be encouraged through accessible and varied consultation methods
- Written material will be clear
- Sufficient time will be given for considered responses
- Careful consideration will be given to all responses
- Give feedback regarding the responses received and how the consultation process influenced the outcome.

Consultation Co-ordinator

4.21 HMRC have a consultation co-ordinator whose role is to help colleagues in HMRC conduct successful consultation exercises. If anyone is concerned that any particular consultation is falling short of the standards set out in this framework please contact:

hmrc-consultation-co-ordinator@hmrc.gsi.gov.uk

5

PROGRAMME OF GUIDANCE IMPROVEMENTS

5.1 HMRC has committed to a programme to revise and update the various forms of guidance of relevance to large business. In collaboration with business, outdated guidance will be updated to reflect changes in legislation and the evolving commercial landscape. It will also include relevant practical examples which illustrate HMRC's view of the application and the interpretation of the law, and on which business can rely.

5.2 The programme for 2007/2008, detailed below, has been agreed in consultation with business. It builds on an existing maintenance programme, as part of HMRC's strategic commitment to making it easier for taxpayers to pay the right tax at the right time, and so improving their experience of dealing with us as an organisation.

5.3 Publishing our programme marks a step forward in our commitment to earlier, closer and continuing consultation with business, as an integral part of producing guidance, and in line with our commitment in HMRC's Consultation Framework (Proposal 9, Chapter 4). We expect this to deliver significant benefits in terms of understanding commercial practices and aligning tax requirements and processes with them better, to minimise compliance and administrative costs for both sides.

5.4 This continuing dialogue, not only with our business customers but with greater collaboration across our policy and operational units, means that the guidance programme should remain a living document that evolves as HMRC and business learn more about their respective needs, and that responds to commercial and legal developments.

5.5 We have started discussions to adapt our approach when developing new legislation by building earlier involvement with large business into the process. Earlier consultation will secure timely focus on the practicalities of implementation and should enable HMRC to align its requirements more closely with standard business procedures and commercial practice. Business will have a much better understanding of the impact on them. Their input should lead to clearer, more effective guidance that will provide greater certainty on the tax implications of both complex and routine issues.

5.6 The impact of our improved guidance will be measured through continuing dialogue and discussion with large business. We are exploring ways of gathering more structured feedback, which we will develop over the coming months.

PROGRAMME OF PLANNED IMPROVEMENTS TO HMRC GUIDANCE (PROPOSAL 10)

Spring 2007

- **Capital Gains Manual** – Targeted anti-avoidance rules (from Budget 06).
- **Construction V1-08** – existing guidance will be updated.
- **Corporate Finance Manual** – bring up to date guidance on Derivatives and Structured Finance Legislation (FA06). New guidance on Islamic Finance.
- **Guidance on UK REITs** – new up to date guidance.
- **Savings and Investment Manual** – new guidance, which will include deduction of tax at source.
- **Tobacco Products Duty, Notice 476** – update to reflect recent changes in law and policy.

Summer 2007

- **Business Leasing Manual** – new guidance bringing together material from Finance Leasing Manual and Business Income Manual, updating for FA04 and FA06 (leasing reform and sale of lessors).
- **Life Assurance Manual** – update. Structure and style will also be changed.
- **Partial Exemption V1-15** – update.
- **Aggregates Levy AGL1**
- **VAT Liability V1-07** – Insurance (chapter 17) updated to reflect changes to VAT exemption; Finance (chapter 20) will be re-written.

Autumn 2007

- **Climate Change Levy CCL1, CCL1-3, CCL1-4** – Simplification of processes.
- **Corporate Finance Manual** – Minor updates, including loan relationships and derivative contracts.
- **V2-01 Insurance Premium Tax (IPT)** – Update and restructure for internet publication.
- **VAT Place of Supply V1-4** – to be updated and restructured for internet publication.
- **VAT Place of Supply of Services PN741** – to be updated and merged with PN744D (International Services).
- **Stamp Duty Land Tax Manual** – Updating for new legislation and chapter on Scottish Leases.
- **Transfer pricing enquires** – Guidance on the comprehensive approach under Varney proposal 5.
- **Advance Rulings** – new guidance under Varney proposal 1.

Winter 2007/2008

- **Company Tax Manual** – update material on purchase of own shares and new material on management expenses.
- **Landfill Tax LFT1 (general guide) LFT2 (reclamation of contaminated land)** – Tightening existing guidance on record keeping to support claims for landfill tax credit. Part of general policy review in this area. Contaminated land exemption under review as part of Budget 07.
- **Stamp Taxes on Shares Manual** – new.

(This list will be updated as part of our ongoing programme of guidance improvement).

6

ENHANCED CLEARANCE PROCESS AND SUMMARY TABLE OF STATUTORY CLEARANCES

6.1 In November 2006 HMRC committed to the extension of existing clearances procedures so that we will provide business with our view of the tax consequences across all relevant taxes on significant commercial issues wherever there is uncertainty regardless of when legislation was enacted.

6.2 From Budget 2008, existing clearances⁴ will be extended to meet this commitment, reflecting our ambition to work alongside business in ‘real time’, and predicated on full transparency from business and their intermediaries. We recognise the need to balance business’ desire for certainty and clarity against our obligations to administer the tax system efficiently, and we must ensure that the new process, as finally implemented, is not just about due diligence, but adds value for all participants.

6.3 We have taken the first steps of this new process by

- Announcing formal consultation in summer 2007 on the parameters of the new system, such as the definition of ‘significant’ and ‘uncertainty’, and on the effects of removing the stipulation that the relevant legislation must fall within the last four Finance Acts for an issue to be considered.
- Announcing the early extension (without time limit) of clearance work to two particular areas of tax law where there remains genuine uncertainty:

Stamp duty land tax from Royal Assent of Finance Act 2007;

and

Substantial Shareholding Exemption from 01 June 2007.

6.4 In response to business wanting clarification of the statutory clearances and rulings available, HMRC today publish a table of statutory clearances and relevant contacts. This table updates existing information on the internet and it is expected to bring increased certainty to business.

⁴ The word ‘clearance’ is used here to include any clearance or ruling on a transaction given by HMRC, whether required by law or otherwise, given in advance of a return, either before or after the transaction.

STATUTORY CLEARANCES AND RELEVANT CONTACTS

Statutory clearance	Relevant contact
Capital gains:	
Under S138 TCGA 1992	
<p>For confirmation that the anti-avoidance provisions at Section 137(1) TCGA will not prevent Sections 135 or 136 TCGA from applying on the proposed share exchanges, company reconstructions or amalgamations, and for confirmation that the anti-avoidance provisions at Section 140E(7) will not prevent Sections 140E, F or G applying on the proposed formation of a European Company (SE) merger. (a)</p>	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/s138-139.htm</p>
Under Section 139(5) TCGA 1992	
<p>For confirmation that the anti-avoidance provisions at Section 139(5) TCGA will not prevent Section 139 TCGA applying on the proposed company reconstruction or amalgamation involving a transfer of business.(a)</p>	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/s138-139.htm</p>

Statutory clearance	Relevant contact
<p>Under Section 140B TCGA 1992</p> <p>For confirmation that the anti-avoidance provisions at Section 140B TCGA will not prevent S140A TCGA from applying on the proposed transfer of non-UK trade made by a UK company resident in different European Union Member State.(a)</p>	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/s140b-140d.htm</p>
<p>Under Section 140D TCGA 1992</p> <p>For confirmation that the anti-avoidance provisions at Section 140D TCGA will not prevent S140C TCGA from applying on the proposed transfer of non-UK trade made by a UK company to a company resident in different European Union Member State.(a)</p>	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/s140b-140d.htm</p>
<p>Under Section 247(1)(f) ITA 2007</p> <p>(from 6 April 2007 - previously Section 304A(1)(f) ICTA 1988)</p> <p>For confirmation that the anti-avoidance provisions of Section 137(1) TCGA 1992 will not prevent the provisions of Section 304A ICTA from applying such that the exchange of shares shall not be regarded as involving any disposal of the old shares or acquisition of the new shares and EIS and BES reliefs will continue to apply.(a)</p>	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p>

Statutory clearance	Relevant contact
Under Paragraphs 84(6), 85(5), 86(9) and 87(8) Schedule 29 FA 2002	
For confirmation that the proposed transfer of the business or trade under a company reconstruction will be treated as tax-neutral. (a)	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/para-88-schedule.htm</p>
(a) – Please note that clearance for an anti-avoidance provision under the sections of the acts shown above does not extend to other conditions. Whether the transactions in question meet the relevant technical conditions will be a matter to be determined after the transactions have taken place.	
Demergers:	
Under Section 215(1) ICTA 1988	
For confirmation that the proposed division of the trading activities of a single company or group between two or more companies or groups will represent an exempt distribution for the purposes of Section 213(2) ICTA 1988.	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/cap-s215-icta.htm</p>

Statutory clearance	Relevant contact
Under Sections 215(2) & (3)	
For confirmation that proposed payment will not be chargeable payments for the purposes of Section 214 ICTA 1988.	Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk
<p>Purchase of own shares by unquoted trading company:</p>	
Under Section 225(1)(a) ICTA 1988	
For confirmation that a payment made on a purchase of own shares does fall to be treated as an income distribution for tax purposes.	Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk Guidance: http://www.hmrc.gov.uk/news/cap-s225-icta.htm
Under Section 225(1)(b) ICTA 1988	
For confirmation that a payment made on a purchase of own shares is one which does not fall to be treated as an income distribution.	Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk

Statutory clearance	Relevant contact
Transactions in securities:	
Under Section 701 Income Tax Act 2007 or Section 707 ICTA 1988	
For confirmation that provisions cancelling tax advantages obtained from certain transactions in securities (in the circumstances specified at Sections 686-690 ITA 2007 or Sections 704A-E ICTA 1988) will not apply.	<p>Clearance & Counteraction Team, Anti-Avoidance Group First Floor 22 Kingsway London WC2B 6NR Telephone: 020 7438 7474 Fax: 020 7438 4409 E-mail: reconstructions@hmrc.gsi.gov.uk</p> <p>Guidance: http://www.hmrc.gov.uk/cap/s707-icta.htm</p>
[Sections 682 –713 Income Tax Act 2007 replace Sections 703 – 709 Income and Corporation Taxes Act 1988 from 6 April 2007 for income tax only. Section 703-709 ICTA 1988 will continue to apply for corporation tax.].	
Company migrations:	
Notices to be given under Section 130(2)(a) Finance Act 1988	
Under this section a company intending to cease to be resident in the UK must first notify us and make acceptable arrangements for payment of all tax due for periods up to the date of the proposed migration.	<p>Hazel Ford International CT & VAT 03/64/01, 3rd Floor 100 Parliament Street London SW1A 2BQ Telephone: 020 7147 2689 Fax: 020 7147 2649</p>

Statutory clearance	Relevant contact
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Insurance Companies – transfers of business:

Section 139(5) TCGA as extended by Section 211 TCGA and Section 444A(8) ICTA

For confirmation that the anti-avoidance provisions at Section 139(5) TCGA will not prevent Section 139 TCGA (as modified by Section 211 TCGA) applying on the proposed transfer of long-term insurance business.

Richard Thomas
HMRC
CT&VAT
Insurance Group
Mailstation A 3rd Floor
100 Parliament Street
London SW1A 1BQ

For confirmation that the anti-avoidance provision at Section 444A(8) ICTA will not prevent Section 444A applying on the proposed transfer of long-term insurance business.

Corporate Venture Schemes:

Part X Sch 15 FA2000

For confirmation that, providing that the facts regarding the proposed share issue and the company still apply when the shares are issued, the company and the shares issued will meet the requirements of Parts III and IV of Sch 15 FA2000.”

Small Company Enterprise Centre
CRI
Ty Glas
Llanishen
Cardiff
CF14 5ZG
Tel: 029 2032 7400
E-mail:
Enterprise.centre@hmrc.gsi.gov.uk

Transactions in land:

Under S35 ICTA 1988

Confirmation of the taxpayer’s view of the tax consequences of assigning a lease granted at under value.

Applications for clearance under Section 35(3) ICTA should be sent to the HMRC Officer who deals with the taxpayer’s returns. Guidance at PIM1222 [LINK].

Statutory clearance	Relevant contact
Under S776 ICTA 1988	
Confirmation that Section 776 ICTA does not apply to gains made from transactions in land.	Applications for clearance under Section 776(11) ICTA should be sent to the HMRC Officer who deals with the taxpayer's returns. Guidance at BIM60300 et seq. [LINK] .
International Trade:	
Under Council Regulation (EEC) 2913/92 of 12 October 1992 (as amended) establishing the Community Customs Code, and the Implementing Provisions in Commission Regulation (EEC) 2454/93 of July 1993 (as amended)	
For legally Binding Origin Information for preferential and non-preferential goods.	<p>Application form C&E 1900 is available via the HMRC website: www.hmrc.gov.uk</p> <p>Or by telephoning the HMRC National Advice Service on:</p> <p>0845 010 9000.</p> <p>When completed it should be sent to: HMRC Frontiers and International Trade, Duty Liability Team, 6th floor Portcullis House 27 Victoria Avenue Southend on Sea Essex SS2 6AL</p>
Under Council Regulation (EEC) 2913/92 of 12 October 1992 (as amended) establishing the Community Customs Code, and the Implementing Provisions in Commission Regulation (EEC) 2454/93 (as amended).	

Statutory clearance	Relevant contact
<p>For legally binding tariff information confirming the tariff classification of goods for import/export purposes.</p>	<p>Application form C103 is available by telephoning the Tariff Classification Service on 01702 366077 from:</p> <p>HMRC Frontiers and International, Tariff Classification Service 2nd Floor North West Alexander House 21 Victoria Street Southend on Sea Essex SS99 1AL</p> <p>You can also apply electronically by registering under the Government Gateway website www.gateway.gov.uk under organisations.</p>
<p>Under articles in the Origin protocols in the reciprocal Association, Free Trade and Stabilisation and Association Agreements which the European Community has concluded with a range of third countries, and Articles in Community Customs Code Implementing provisions (Commission Regulation 2454/93) laying down the rules of origin for the EC's autonomous preferential trade arrangements.</p>	
<p>For approval of UK exporters to issue simplified proofs of preferential origin.</p>	<p>Contact HMRC National Advice Service on 0845 010 9000.</p>
<p>Stamp Duty Adjudication:</p>	
<p>Under S12 Stamp Act 1891</p>	
<p>Any person may require the HMRC Commissioners to confirm whether, and is so in what amount, an executed instrument is chargeable with stamp duty, whether any late stamping penalty is payable and whether, in their opinion, that penalty is correct and appropriate.</p>	<p>Miles Harwood Excise & Stamp Taxes 100 Parliament Street London SW1A 2BQ</p> <p>Tel: 020 71472801</p>

Statutory clearance	Relevant contact
Offshore Funds: distributing status:	
Under section 760 Income and Corporation Tax Act 1988	
An offshore fund shall not be certified as a distributing fund in respect of an account period unless the fund pursues a full distribution policy within the meaning of Part I of Schedule 27 ICTA 1988.	<p>Liz Foster/Sandra Whyman HMRC Offshore Funds Centre 6th Floor Concept House 5 Young Street Sheffield S1 4LB</p> <p>Tel: 0114 296 9377 or 9688</p> <p>Or see the Offshore Funds page of the HMRC website: http://www.hmrc.gov.uk/offshorefunds/distfundapps.htm</p>

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