

Note that the boxed comments below some regulations are not part of the draft regulations but are inserted in this draft for consultation for explanatory purposes only.

Draft Regulations laid before the House of Commons under section [-] of the Finance Act 2008 for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

[X] No. [Y]

INCOME TAX

CORPORATION TAX

CAPITAL GAINS TAX

The Offshore Funds (Tax) Regulations [X]

Approved by the House of Commons

Made - - - - [X]

Coming into force- - [X]

The Treasury make the following Regulations in exercise of the powers conferred by sections [38](1) and [39] of the Finance Act 2008.

In accordance with section [38](4) of that Act, a draft of this instrument was laid before the House of Commons and approved by a resolution of that House.

PART 1

PRELIMINARY PROVISIONS AND INTERPRETATION

Preliminary provisions

1.1.1. Citation and commencement

These Regulations may be cited as the Offshore Funds (Tax) Regulations [X], and shall come into force on [day/month] [X].

It is intended that these regulations will commence in Spring 2009. See paragraph 1.9 of "Offshore funds: next steps" (published by HM Treasury in March - http://www.hm-treasury.gov.uk/media/1/0/consult_offshorefunds_270308.pdf). This document is called "OF:NS" below.

1.1.2. Structure of these Regulations

The structure of these Regulations is as follows—

this Part contains preliminary provisions and provides for interpretation;

Part 2 contains general provisions relating to offshore funds;

Part 3 deals with the treatment of participants in non-reporting funds;

Part 4 deals with the reporting funds and the treatment of participants in reporting funds;

Part 5 makes contains consequential amendments to primary legislation.

Interpretation

1.1.3ZA. Definition of “participant”

- (1) In these Regulations a “participant”, in relation to an offshore fund, means a beneficial owner of an interest in the fund.
This is subject to paragraphs (2) and (3).
- (2) If the interest is held on trust (other than a bare trust) the participant, in relation to the fund, means the trustees of the trust.
- (3) If the interest is comprised in the estate of a deceased person the participant, in relation to the fund, means the deceased’s personal representatives.

This regulation is based on regulation 6(6) of the Authorised Investment Funds (Tax) Regulations (SI 2006/964) - “the AIF regulations”.

1.1.3ZB. Definition of “market value”

- (1) The market value of any asset for the purposes of these Regulations shall be determined in like manner as it would be determined for the purposes of TCGA 1992.
- (2) But in the case of an interest in an offshore fund for which there are separate published buying and selling prices, section 272(5) of that Act (meaning of “market value” in relation to rights of unit holders in a unit trust scheme) shall apply with any necessary modifications for determining the market value of the interest for the purposes of this Chapter.

This regulation reproduces section 759(9) of the Income and Corporation Taxes Act 1988 (“ICTA”)

1.1.3. General interpretation

In these Regulations–

“HMRC” means Her Majesty’s Revenue and Customs;

“proposed prospectus” includes any documents supplementing or amending the proposed prospectus;

“prospectus” includes any documents supplementing or amending the prospectus;

This regulation is based partly on regulation 69E of the AIF regulations.

1.1.4. Abbreviations and general index

- (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.

PART 2

GENERAL PROVISIONS RELATING TO OFFSHORE FUNDS

General

2.1.1. Definition of “offshore fund”

In these Regulations “offshore fund” has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act).

The definition here retains that in Chapter 5 of Part 17 of ICTA. See Chapter 2 of OF:NS

2.1.2. Classification of offshore funds

- (1) Offshore funds consist of—
 - (a) non-reporting funds (see Part 3 of these Regulations), and
 - (b) reporting funds (see Part 4 of these Regulations).
- (2) An offshore fund is a non-reporting fund unless it is a fund to which Part 4 of these Regulations applies for a period of account.

Reporting and non-reporting funds are the two basic types of offshore fund, replacing qualifying and non-qualifying funds in Chapter 5 Part 17 ICTA.

Umbrella funds

2.1.3. Treatment of umbrella funds

- (1) For the purposes of these Regulations “umbrella fund” has the meaning given by section 756B(1) of ICTA.
- (2) For the purposes of these Regulations—
 - (a) each part of an umbrella fund is regarded as a separate offshore fund, and
 - (b) the umbrella fund as a whole is not regarded as an offshore fund.
- (3) In these Regulations, in relation to a part of an umbrella fund—
 - (a) a reference to the assets of an offshore fund is to such of the assets of the umbrella fund as under the arrangements form part of the separate pool to which that part of the umbrella fund relates;
 - (b) a reference to the income of an offshore fund is to the income arising from those assets; and
 - (c) a reference to a participant in an offshore fund is to a person for the time being owning an interest in that separate pool.

This regulation reproduces section 756B ICTA (apart from subsection (3)(d) which is not needed) for the purposes of these regulations

Funds comprising more than one class of interest

2.1.4. Treatment of funds comprising more than one class of interest

- (1) This regulation applies if there is more than one class of interest in an offshore fund (the “main fund”).
- (2) For the purposes of these Regulations—
 - (a) each class of interest is regarded as a separate offshore fund, and
 - (b) the main fund is not regarded as an offshore fund.
- (3) In this regulation, references to a class of interest in an offshore fund do not include—
 - (a) a part of an umbrella fund which is regarded as an offshore fund by virtue of regulation [2.1.3], or
 - (b) a class of interest in an offshore fund which, by virtue of any provision of Chapter 3 of Part 3 of these Regulations, is not a relevant interest in the fund.
- (4) In these Regulations, in relation to a class of interest in an offshore fund—
 - (a) a reference to the assets of an offshore fund is to the assets of the main fund;
 - (b) a reference to the income of an offshore fund is to such of the income of the main fund as is attributable to interests of that class under the arrangements constituting the main fund; and
 - (c) a reference to a participant in an offshore fund is to a person for the time being owning an interest of that class.

This regulation reproduces section 756C ICTA (apart from subsection (3)(d) which is not needed) for the purposes of these regulations.

PART 3

THE TREATMENT OF PARTICIPANTS IN NON-REPORTING FUNDS

CHAPTER 1

PRELIMINARY PROVISIONS

3.1.1. Structure of this Part

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

- (a) this Chapter contains preliminary provisions;
- (b) Chapter 2 deals with the charge to tax on participants in non-reporting funds;
- (c) Chapter 3 deals with relevant interests in non-reporting funds;
- (d) Chapter 4 deals with disposals of relevant interests in non-reporting funds;
- (e) Chapter 5 deals with the computation of offshore income gains;
- (f) Chapter 6 deals with the deduction of offshore income gains in determining capital gains;

- (g) Chapter 7 deals with the conversion of a non-reporting fund into a reporting fund.

This Part reproduces the effect of the charging rules relating to material interests in non-qualifying offshore funds in sections 761 to 763 of, and Part I of Schedule 28 to, ICTA

3.1.2. Interpretation

In these Regulations a “material disposal” means a disposal to which this Part of these Regulations applies.

CHAPTER 2

THE CHARGE TO TAX ON PARTICIPANTS IN NON-REPORTING FUNDS

3.2.1. The charge to tax

- (1) There is a charge to tax if a person disposes of an asset which, at the time of the disposal—
 - (a) is a relevant interest in a non-reporting fund, and
 - (b) gives rise to an offshore income gain.
- (2) The offshore income gain is treated for all the purposes of the Tax Acts as income arising at the time of the disposal to the person making the disposal.
Chapter 5 contains provisions dealing with the computation of offshore income gains.
- (3) The tax is charged on the person making the disposal.
- (4) In the case of a participant 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) and 689 of ITTOIA 2005 (income charged and person liable) do not apply.
- (5) In the case of a participant chargeable to corporation tax, tax is charged under Case VI of Schedule D for the accounting period in which the disposal is made.
- (6) Paragraph (4) is subject to regulation 3.2.9A (income treated as arising: non-UK domiciled individuals to whom remittance basis applies).

This regulation is based on section 761(1), (1A) and (5) ICTA. Paragraph (4) provides for the first time that an offshore income gain is charged to tax under ITTOIA where made by a person other than a company within the charge to CT. Currently the charge to income Tax is free-standing within section 761(1)(b)(i) and is one of the “elsewhere” places mentioned in section 1(2) ITA 2007 and one of the “other provisions” in section 3(2) of that Act though not specifically listed. Paragraph 6 is based on the section 761(5) substituted by paragraph 87 of Schedule 7 to the Finance Bill 2008.

3.2.2. Application of certain provisions of ICTA and TCGA 1992

- (1) The following enactments have effect in relation to income tax or corporation tax in respect of offshore 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).
- (2) Paragraph (1) is subject to paragraphs (3) and (4).
 - (3) In the application of section 10 of TCGA 1992 in accordance with paragraph (1), paragraphs (a) and (b) of subsection (1) (assets on the disposal of which chargeable gains are taxable) have effect with the omission of the words “situated in the United Kingdom and”.
 - (4) In the application of section 10B of TCGA 1992 in accordance with paragraph (1), paragraphs (a) and (b) of subsection (1) (assets on the disposal of which chargeable profits arise for the purposes of corporation tax) have effect with the omission of the words “situated in the United Kingdom and”.

This regulation is based on section 761(2) and (3) ICTA. The reference to section 11(2A)(c) ICTA in section 761(2) is redundant and not reproduced.

3.2.4. Charitable companies and charitable trusts

- (1) A charitable company shall be exempt from corporation tax in respect of an offshore income gain if the gain is applicable and applied for charitable purposes.
- (2) See section 535 of ITA 2007 for an exemption for income tax purposes for offshore income gains accruing to a charitable trust.
- (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 offshore 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 offshore gain accruing on the disposal arising under paragraph (4) is treated as an offshore 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.

This regulation is based on section 761(6) to (6C) ICTA.

3.2.6. Application of section 10A of TCGA 1992

- (1) Section 10A of TCGA 1992 (temporary non-residents) 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 offshore income gains;
 - (d) in paragraph (b)–
 - (i) for the reference to chargeable gains there were substituted a reference to offshore income gains;
 - (ii) for the reference to section 13 or 86 there were substituted a reference to regulation [3.2.7];
 - (e) paragraph (c) were omitted; and
 - (f) for the reference to gains or, as the case may be losses there were substituted a reference to offshore 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 offshore income gains; and
 - (b) for the reference to any gain or loss there were substituted a reference to any offshore 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 offshore income gains;
 - (b) for the reference to any chargeable gain or allowable loss there were substituted a reference to an offshore income gain; and
 - (c) for the reference to section 10 or 16(3) there were substituted a reference to regulation [3.2.2](1)(b).
- (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 (9ZA)–
- (a) for the reference to foreign chargeable gains there were substituted a reference to offshore income gains to which section 762ZA of ICTA applied;
 - (b) the second sentence of that subsection were omitted.
- (9) The section applies as if, in subsection (9B)–
- (a) in paragraph (a)–
 - (i) for the reference to section 87 or 89(2) there were substituted a reference to regulation [3.2.8] or [3.2.9];
 - (ii) for the reference to chargeable gains there were substituted a reference to offshore income gains; and

- (b) in paragraph (b) the references to subsections (2)(c) and (6) were omitted.
- (10) 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 offshore income gains.

This regulation modifies section 10A TCGA, as amended by paragraph 55 Schedule 7 to the Finance Bill. See also paragraph 5.23 of HM Treasury document “Offshore funds: a discussion paper” (OF:DP) published in October 2007.

3.2.7. Application of section 13 of TCGA 1992

- (1) Section 13 of TCGA 1992 (chargeable gains accruing to certain non-resident companies) applies for the purposes of this Part with the following modifications.
- (2) The section applies as if, for any reference to a chargeable gain there were substituted a reference to an offshore income gain.
- (3) The section applies as if, in subsection (5), paragraphs (b) and (c) were omitted.
- (4) The section applies as if, in subsection (7), for the reference to capital gains tax there were substituted a reference to income tax or corporation tax.
- (5) The section applies as if subsection (8) were omitted.
- (6) To the extent that an offshore income gain is treated, by virtue of this regulation, as having accrued to any person resident or ordinarily resident in the United Kingdom, that gain shall not be deemed to be the income of any individual for the purposes of–
 - (a) any provision of Chapter 5 of Part 5 of ITTOIA 2005 (settlements: amounts treated as income of settlor), or
 - (b) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad).

This regulation is based on section 762(1) and (6) ICTA.

3.2.8. Application to gains of non-resident settlements

[Marker: see section 762(2) to (4A) ICTA 1988]

3.2.9. Application of section 87 of TCGA 1992: further provisions

[Marker: see section 762(2) to (4A) ICTA 1988]

These regulations will be drafted when the final form of the modifications of section 87 to 90 and 96 to 98 TCGA 1992 required as a result of the changes to the remittance basis – see Part 2 of Schedule 7 to the Finance Bill 2008 and in particular paragraphs 47, 52, 74 and 91 of the Explanatory Notes on that Schedule explaining that amendments will be tabled at a later stage of the Bill

3.2.9A. Income treated as arising under regulation [3.2.1]: remittance basis

- (1) This regulation applies to income treated as arising under regulation [3.2.1] to an individual in a tax year if–
 - (a) section 809B, 809C or 809D of ITA 2007 (remittance basis) applies to the individual for that year, and
 - (b) the individual is not domiciled in the United Kingdom in that year.
- (2) If any of the income is remitted to the United Kingdom in a tax year, tax is charged on the full amount of the income so remitted in that year.
- (3) Sections 809K to 809Q of ITA 2007 (meaning of “remitted to the United Kingdom” etc) apply in relation to the income as if it were the individual’s relevant foreign income.
- (4) For the purposes of those sections–
 - (a) treat any consideration obtained on the disposal of the asset as deriving from the income, and
 - (b) unless the consideration so obtained is of an amount equal to the market value of the asset, treat the asset as deriving from the income.
- (5) In paragraph (4)–
 - (a) “the asset” means the asset the disposal of which causes the income to be treated as arising, and
 - (b) “the disposal” means the disposal mentioned in sub-paragraph (a) of that paragraph.

This regulation is based on section 762ZA ICTA as inserted by paragraph 89 of Schedule 7 to the Finance Bill.

3.2.10. Further provisions

[Marker: provisions rewriting section 762(5) ICTA 1988]

This regulation will be drafted when the final form of the modifications of section 87 to 90 and 96 to 98 TCGA 1992 required as a result of the changes to the remittance basis – see Part 2 of Schedule 7 to the Finance Bill 2008 and in particular paragraphs 47, 52, 74 and 91 of the Explanatory Notes on that Schedule explaining that amendments will be tabled at a later stage of the Bill

CHAPTER 3

RELEVANT INTERESTS IN NON-REPORTING FUNDS

The general rule

3.3.1. The general rule

- (1) The interest of a participant (“X”) in a non-reporting fund is a relevant interest if, at the time when X acquired the interest, it could reasonably be expected that X would be able to realise the value of the interest at some time during the period of seven years beginning at the time of X’s acquisition.
- (2) Paragraph (1) is subject to the following provisions of this Chapter.

This regulation is based on section 759(2) ICTA. See paragraph 2.3 of OF:NS

3.3.2. The realisation of the value of the interest

- (1) For the purposes of regulation [3.3.1], a participant (“X”) is at any time able to realise the value of an interest if at that time X can realise an amount which is reasonably approximate to that portion which the interest represents (directly or indirectly) of the market value at that time of the assets of the fund.
- (2) For the purposes of regulation [3.3.1], the value of an interest may be realised by transfer, surrender or in any other manner.
- (3) For the purposes of regulation [3.3.1] and of this regulation—
 - (a) a participant (“X”) is able to realise a particular amount if X is able to obtain that amount either in money or in the form of assets to the value of that amount, and
 - (b) if at any time an interest in an offshore fund has a market value which is substantially greater than the portion which the interest represents of the market value at that time of the assets of the fund, the ability to realise such a market value of the interest shall not be regarded as an ability to realise such an amount as is referred to in paragraph (1).

This regulation is based on section 759(3) and (4) ICTA.

Interests that are not relevant interests

3.3.3. Interests in non-reporting funds that are not relevant interests

- (1) An interest in a non-reporting fund is not a relevant interest if condition A or B is met.
- (2) Condition A is that the interest is an interest in respect of any loan capital or debt issued or incurred for money which, in the ordinary course of a business of banking, is lent by a person carrying on that business.
- (3) Condition B is that the interest is a right arising under a policy of insurance.

This regulation is based on section 759(5) ICTA.

3.3.4. Interests in non-resident companies that are not relevant interests

- (1) An interest in a company that is not resident in the United Kingdom is not a relevant interest in an offshore fund at any time when conditions A and B are met.
- (2) Condition A is that the holder of the interest has the right to have the company wound up.
- (3) Condition B is that in the event of a winding up, the holder (“X”) is, by virtue of the interest and any other interest which X then holds in the same capacity, entitled to more than 50 per cent of the assets remaining after the discharge of all liabilities having priority over the interest or interests concerned.

This regulation is based on section 759(8) ICTA.

3.3.5. Shares in non-resident companies that do not constitute relevant interests

- (1) Shares in a company that is not resident in the United Kingdom (an “overseas company”) do not constitute a relevant interest in an offshore fund if conditions A to D are met.
- (2) Condition A is that the shares are held by a company and the holding of them is necessary or desirable for the maintenance and development of a trade carried on by the company or a company associated with it.
- (3) Condition B is that the shares confer at least 10 per cent of the total voting rights in the overseas company and a right, in the event of a winding-up, to at least 10 per cent of the assets of that company remaining after the discharge of all liabilities having priority over the shares.
- (4) Condition C is that not more than ten persons hold shares in the overseas company and all the shares in that company confer both voting rights and a right to participate in the assets on a winding-up.
- (5) Condition D is that at the time of its acquisition of the shares, the company had such a reasonable expectation as is referred to in regulation [3.3.1] only because of the existence of one of the matters mentioned in paragraph (6).
- (6) Those matters are—
 - (a) an arrangement under which, at some time within the period of seven years beginning at the time of acquisition, that company may require the other shareholders to purchase its shares;
 - (b) provisions of either an agreement between the shareholders or the constitution of the overseas company under which the company will be wound up within a period which is, or is reasonably expected to be, shorter than the period referred to in subsection (2) above; and
 - (c) both such an arrangement and such provisions.
- (7) For the purposes of this regulation—
 - (a) a company is associated with another company if one of them has control of the other within the meaning of section 416 of ICTA or both of them are under the control of the same person or persons (within the meaning of that section); and
 - (b) “shareholders” means the persons holding shares falling within paragraph (4).

This regulation is based on section 759(6) and (7) ICTA.

CHAPTER 4

DISPOSALS OF RELEVANT INTERESTS IN NON-REPORTING FUNDS

Basic provisions

3.4.1. Application of this Chapter

This Chapter applies if a participant disposes of an asset which, at the time of the disposal, is a relevant interest in a non-reporting fund.

3.4.2. Meaning of disposal of an asset: the basic rule

- (1) There is a disposal of an asset for the purposes of these Regulations if there would be a disposal of an asset for the purposes of TCGA 1992.
- (2) Paragraph (1) is subject to the following provisions of this Chapter,

These regulations are based on section 757(1) and (2) ICTA.

Further provisions

3.4.3. Provisions applicable on death

- (1) Notwithstanding anything in paragraph (b) of subsection (1) of section 62 of the 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 a relevant interest in a non-reporting fund, then, for the purposes of these Regulations—
 - (a) immediately before the acquisition referred to in paragraph (a) of that subsection, that interest 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 [3.4.1] above, 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 shall be construed in accordance with subsection (10) of that section.

This regulation is based on section 757(3) and (4) ICTA.

3.4.4. Application of section 135 of TCGA 1992

- (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 of these Regulations to the extent that—
 - (a) the interest in the entity that is company A for the purposes of that section that is exchanged is an interest in a non-reporting fund, and
 - (b) the interest in the entity that is company B for those purposes that is exchanged is not an interest in such a fund.
- (2) In a case where section 135 of TCGA 1992 would apply apart from paragraph (1), the exchange in question (of interests in or of an entity that are interests in a non-qualifying offshore fund) shall for the purposes of this Part of these Regulations constitute a disposal of interests in the offshore fund for a consideration equal to their market value at the time of the exchange.

This regulation is based on section 757(5) ICTA.

3.4.5. Application of section 136 of TCGA 1992

- (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 of these Regulations to the extent that—

- (a) the interest in the entity that is company A for the purposes of that section that is exchanged is an interest in a non-qualifying offshore fund, and
 - (b) the interest in the entity that is company B for those purposes that is exchanged is not an interest in such a fund.
- (2) In a case where section 136 of TCGA 1992 would apply apart from this subsection, the deemed exchange in question (of interests in or of an entity that are interests in a non-qualifying offshore fund) shall for the purposes of this Part of these Regulations constitute a disposal of interests in the offshore fund for a consideration equal to their market value at the time of the deemed exchange.

This regulation is based on section 757(6) ICTA.

3.4.6. Exchange of interests of different classes

- (1) If conditions A to D are met, section 127 of TCGA 1992 (equation of original shares and new holding) does not prevent an exchange from constituting a disposal for the purposes of these Regulations.
- (2) Condition A is that classes of interest in an offshore fund (the “main fund”) are treated as separate offshore funds by virtue of regulation [2.1.4].
- (3) Condition B is that a participant exchanges an interest of one class (“class A”) in the main fund for an interest of another class (“class B”) in that fund as the result of—
 - (a) a reorganisation within the meaning of section 126 of TCGA 1992, or
 - (b) a conversion of securities within the meaning of section 132 of that Act.
- (4) Condition C is that the interest of class A is at the time of the exchange an interest in a non-reporting fund.
- (5) Condition D is that the interest of class B is at the time of the exchange an interest in a fund which is certified by HMRC as a reporting fund.
- (6) Any disposal to which this regulation applies is to be treated as a disposal for a consideration equal to the market value of the rights at the time of the exchange.
- (7) In this section “class of interest” has the same meaning as in regulation [2.1.4].

This regulation is based on section 762A ICTA

CHAPTER 5

THE COMPUTATION OF OFFSHORE INCOME GAINS

3.5.1. Ambit of this Chapter

- (1) This Chapter applies if a participant disposes of an asset which at the time of the disposal is a relevant interest in a non-reporting fund.
- (2) This Chapter also applies if—

- (a) a participant disposes of an asset which at the time of the disposal is a holding in a reporting fund,
 - (b) the reporting fund was previously a non-reporting fund (becoming a reporting fund as the result of an application under regulation [3.7.1], and
 - (c) the participant did not make the election mentioned in regulation [3.7.2](2).
- (3) The disposal gives rise to an offshore income gain of an amount equal to the basic gain on the disposal.
 - (4) The following provisions of this Chapter explain how the basic gain is computed.

This regulation is based on paragraph (1) and 2(1) Schedule 28 ICTA read with section 757(1). This Chapter does not deal with the case in section 757(1) where “at any material time” (section 757(6)(a)) the interest was one in a non-qualifying offshore fund. It applies only where the interest was in a fund which is a non-reporting fund (NRF) on disposal, with an exception catered for by paragraph (2) of the regulation where a fund previously a NRF becomes a reporting fund by virtue of regulation [4.2.2A], and see regulation [3.7.2]

3.5.2. Computation of the basic gain

- (1) In the case of a participant chargeable to income tax, the amount of the basic gain is 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 of these Regulations.
- (2) In the case of a participant chargeable to corporation tax, the amount of the basic gain is 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 of these Regulations, 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 [3.4.3] (provisions applicable on death);
 - (b) regulation [3.4.4] (application of section 135 of TCGA 1992);
 - (c) regulation [3.4.5] (application of section 136 of TCGA 1992);
 - (d) regulation [3.5.3] (earlier disposal to which the no gains/no loss basis applies);
 - (e) regulation [3.5.4] (modifications of TCGA 1992);
 - (f) regulation [3.5.5] (losses).

This regulation is based on paragraph 2(2) Schedule 28 ICTA. But, because indexation is abolished for CGT purposes by paragraph 78 of Schedule 2 to the Finance Bill, describing a gain as an “unindexed” gain becomes meaningless.

3.5.3. Earlier disposal to which the no gains/no loss basis applies

- (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 accrue on the material disposal would fall to be determined 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 material 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 accrued to the person making such an earlier disposal.

This regulation is based on paragraph 3(1) Schedule 28 ICTA.

3.5.4. Modifications of TCGA 1992

- (1) If the material disposal forms part of a transfer to which section 162 of TCGA 1992 (roll-over relief on transfer of business) applies, the basic gain accruing 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 material 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 accruing on the disposal.

This regulation is based on paragraph 3(2) and (3) Schedule 28 ICTA.

3.5.5. Losses

- (1) If the effect of any computation under regulations [3.5.2] to [3.5.4] would be to produce a loss, the basic gain on the material 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 accruing on the material disposal.

This regulation is based on paragraph 3(5) Schedule 28 ICTA.

CHAPTER 6

THE DEDUCTION OF OFFSHORE INCOME GAINS IN COMPUTING CAPITAL GAINS

3.6.1. Ambit of this Chapter

- (1) This Chapter applies if—
 - (a) a material disposal gives rise to an offshore income gain, and
 - (b) that disposal also constitutes the disposal of the interest concerned for the purposes of TCGA 1992.

- (2) In this Chapter, the disposal specified in paragraph (1)(b) is called the “TCGA disposal”.

This regulation is based on section 763(1) ICTA.

3.6.2. Treatment of the TCGA disposal: general rules

- (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 offshore 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 1992 (part disposals), 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 purposes of the fraction in section 42(2) of TCGA 1992.

This regulation is based on section 763(2), (3) and (4) ICTA.

3.6.3. Modification of section 162 of TCGA 1992

- (1) This regulation applies if the TCGA disposal forms part of a transfer to which section 162 of TCGA 1992 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 a sum equal to the offshore income gain.

This regulation is based on section 763(5) ICTA.

3.6.4. Application of section 128 of TCGA 1992

- (1) This regulation applies if there is a disposal to which this Part of these Regulations applies by virtue of—
 - (a) regulation [3.4.4] (application of section 135 of TCGA 1992),
 - (b) regulation [3.4.5] (application of section 136 of TCGA 1992), or
 - (c) regulation [3.4.6] (exchange of interests of different classes).
- (2) TCGA 1992 has effect as if an amount equal to the offshore 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)).

This regulation is based on section 763(6) and (6A) ICTA.

CHAPTER 7

THE CONVERSION OF A NON-REPORTING FUND INTO A REPORTING FUND

3.7.2. Consequences of conversion for participants

- (1) This regulation applies in the case of an offshore fund that ceases to be a non-reporting fund and becomes a reporting fund.
- (2) A participant in the fund may make an election to be treated—
 - (a) as disposing of the relevant interest owned by the participant in the non-reporting fund at its market value on the disposal date, and
 - (b) as acquiring a holding in the reporting fund at the beginning of the reporting fund's first period of account.
- (3) Chapter 5 of this Part of these Regulations applies to determine the offshore income gain arising on the disposal referred to in paragraph (2)(a) as it applies in the case of the disposal of an asset which at the time of the disposal is a relevant interest in a non-reporting fund.
- (4) The acquisition referred to in paragraph (2)(b) is treated as made for the same amount as 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 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 disposal date.
- (7) In this regulation—
 - “company tax return” has the same meaning as in Schedule 18 to the Finance Act 1998;
 - “disposal date” means the final day of the non-reporting fund's final period of account.

This regulation sets out the consequences for participants where a fund which is not an RF at the outset of the new regime (and so is a NRF) applies for RF status, and where a fund is allowed to reapply for RF status - see paragraph 3.61 of OF:NS.

The participant can elect to recognise an offshore income gain at the point of conversion as if it has disposed of an interest in a NRF.

PART 4

REPORTING FUNDS AND THE TREATMENT OF PARTICIPANTS IN REPORTING FUNDS

CHAPTER 1

PRELIMINARY PROVISIONS

4.1.1. Structure of this Part

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

- (a) this Chapter contains preliminary provisions;
- (b) Chapter 2 contains provisions relating to entry into the reporting fund regime;
- (c) Chapter 3 contains provisions relating to the general duties of reporting funds;
- (d) Chapter 4 contains provisions relating to the preparation of accounts;
- (e) Chapter 5 contains provisions relating to the computation of reported income;
- (f) Chapter 6 contains provisions relating to reports to participants;
- (g) Chapter 7 contains provisions relating to the tax treatment of participants in reporting funds;
- (h) Chapter 8 contains provisions relating to the provision of information to HMRC;
- (i) Chapter 9 contains provisions relating to breaches of reporting fund requirements;
- (j) Chapter 10 contains provisions relating to leaving the reporting fund regime.

4.1.2. Meaning of “reporting fund”

In these Regulations a “reporting fund” means an offshore fund to which this Part of these Regulations applies for a period of account.

CHAPTER 2

ENTRY INTO THE REPORTING FUND REGIME

Applications for this Part to apply

4.2.1. Who may make an application

- (1) The manager of an offshore fund may make an application for this Part of these Regulations to apply to the fund.
- (2) If it is proposed to establish an offshore fund, the person expected to become the manager of the fund on its establishment (the “applicant”) may make an application for this Part of these Regulations to apply to the fund on its establishment.
- (3) In these Regulations—
the “applicant” means the person referred to in paragraph (2),
an “application” means an existing fund application or a future fund application”,
an “existing fund application” means an application made under paragraph (1), and

a “future fund application” means an application made under paragraph (2).

This regulation gives effect to paragraphs 3.7 to 3.14 of OF:NS and is based on regulation 69O(2) AIF regulations.

4.2.2. Contents of application

- (1) An application must include the following–
 - (a) a statement of the first period of account for which it is proposed that this Part of these Regulations 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 use International Accounting Standards in preparing its accounts, and, if it does not, a statement of which generally accepted accounting practice it intends to use;
 - (d) a statement specifying the figures in the fund’s accounts that are considered to equate to “total recognised income and expense for the period” (see regulation [4.5.2]);
 - (e) in a case in which the fund has or will have more than one class of interest, a certificate that there will be no discrimination between participants with different classes of interest (see regulation [4.3.2]);
 - (f) an undertaking to meet the requirements relating to reports to participants (see Chapter 6);
 - (g) an undertaking to meet the requirements relating to the provision of information to HMRC (see Chapter 8).
- (2) An existing fund application must be accompanied by the prospectus.
- (3) A future fund application must be accompanied by the proposed prospectus.

This regulation gives effect to paragraphs 3.7 to 3.14 of OF:NS and is based on regulation 69Q AIF regulations.

4.2.2A. Conversion of non-reporting fund into reporting fund

- (1) A non-reporting fund may make an application to become a reporting fund if condition A or B is met.
- (2) Condition A is that the fund has never been a reporting fund.
- (3) Condition B is that the fund gave notice under Chapter 10 of Part 4 of these Regulations (leaving the reporting fund regime) because it had ceased to have any UK resident participants.

This regulation allows a non-reporting fund to apply to convert to a reporting fund. This will be further developed to ensure that if a fund has previously been a reporting fund it can only re-enter the regime if it left voluntarily and completed its obligations for the previous period as a reporting fund. See regulation [3.7.2] for the tax consequences for an investor in such a fund.

4.2.3. Form and timing of application

- (1) An application must be made in writing to HMRC.

- (2) An existing fund application must be received by HMRC at least [28] days before the beginning of the first period of account for which it is proposed that this Part should apply to the fund.
- (3) A future fund application must be received at least [42] days before the beginning of the first period of account for which it is proposed that this Part should apply to the fund.
- (4) An application may be withdrawn at any time before it takes effect—
 - (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).

This regulation gives effect to paragraphs 3.7 to 3.14 of OF:NS. It is based on regulation 69Q AIF regulations.

Procedure on applications

4.2.4. Response by HMRC to application

- (1) Within 28 days beginning with the day on which HMRC receive the application, HMRC must give notice to the person who made the application—
 - (a) accepting the application,
 - (b) rejecting the application; or
 - (c) asking for further information in order to consider the application.
- (2) HMRC must not accept an application if—
 - (a) a main purpose of the fund, or
 - (b) one of the main purposes of a fund investing in other non-reporting funds,
 is the obtaining of a tax advantage for any of its UK resident participants.
- (3) In paragraph (2)—

“fund” includes a fund which it is proposed to establish, and

“tax advantage”—

 - (a) in the case of a UK resident participant chargeable to income tax, is to be construed in accordance with section 683 of ITA 2007, and
 - (b) in the case of a UK resident participant chargeable to corporation tax, has the meaning given by section 840ZA of ICTA.
- (4) Paragraph (5) applies if—
 - (a) HMRC have given notice under paragraph (1)(c), and
 - (b) the person who made the application provides further information within a period of 28 days beginning with the day on which HMRC ask for further information, or within such longer period as is agreed by HMRC.
- (5) Within 28 days beginning with the day on which HMRC receive the further information, HMRC must give notice to the person who made the application—
 - (a) accepting the application,

- (b) rejecting the application; or
- (c) asking for further information in order to consider the application.

See in particular paragraph 3.13 of OF:NS and regulation 69Z10 of the AIF regulations.

CHAPTER 3

THE GENERAL DUTIES OF REPORTING FUNDS

4.3.1. General duties of reporting fund

A reporting fund must—

- (a) prepare accounts in accordance with the requirements of Chapter 4;
- (b) provide a computation of its reported income in accordance with the requirements of Chapter 5;
- (c) provide reports to participants in accordance with the requirements of Chapter 6; and
- (d) provide information to HMRC in accordance with the requirements of Chapter 8.

4.3.2. Non-discrimination in respect of different classes of shares

- (1) This regulation applies if a reporting fund has more than one class of shares.
- (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 offshore fund concerned or the prospectus in issue for the time being of that fund or by the trust deed under which the fund 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 offshore 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).

This regulation is based on regulation 77 of the AIF regulations. It ensures that where a fund has different share classes each investor should receive their proportionate share of income and capital returns (subject to differing charges as set out).

CHAPTER 4

THE PREPARATION OF ACCOUNTS

This Chapter gives effect to paragraphs 3.21 to 3.31 of OF:NS.

General

4.4.1. Accounts to be prepared in accordance with acceptable accounting policy

A reporting fund must prepare accounts—

- (a) in accordance with international accounting standards, or
- (b) in accordance with the generally accepted accounting practice specified in the application.

This regulation permits a GAAP which is neither UK GAAP nor IAS to be used. It would be expected that if the territory in which the fund is (or is to be) resident has a developed GAAP, that is the one to be used rather than any other. See paragraph 3.27 of OF:NS.

Changes in accounting policy

4.4.2. Circumstances in which regulation [4.4.3] applies

- (1) Regulation [4.4.3] applies if—
 - (a) there is a change of accounting policy in drawing up a reporting fund's accounts from one period of account (in this Chapter called the "earlier period") to the next (in this Chapter called the "later period"), and
 - (b) the approach in each of those periods accorded with the law and practice applicable in relation to that period.
- (2) Regulation [4.4.3] applies whenever there is a change of accounting policy in drawing up a reporting fund's accounts.

4.4.3. Rules applying on change in accounting policy

- (1) If there is a difference between—
 - (a) the accounting value of an asset or liability of the offshore fund at the end of the earlier period, and
 - (b) the accounting value of that asset or liability at the beginning of the later period,a corresponding debit or credit (as the case may be) must be brought into account for the purposes of these Regulations in the later period.
- (2) In paragraph (1) "accounting value" means the carrying value of the asset or liability recognised for accounting purposes.

4.4.4. Change in accounting policy to a generally accepted accounting practice

- (1) This regulation applies if—

- (a) there is a change of accounting policy in drawing up a reporting fund's accounts from the earlier period to the later period, and
 - (b) the offshore fund prepares accounts for the later period in accordance with a generally accepted accounting practice.
- (2) The offshore fund must give notice to HMRC applying for approval of the generally accepted accounting practice.
 - (3) Chapter 2 of this Part applies to the notice mentioned in paragraph (2) in the same way as it applies to an application.

These 3 regulations deal with a change in accounting policy within a permitted GAAP. Regulation 4.4.3. requires the "prior period adjustment" to be recognised for tax purposes. Regulation 4.4.4 allows a change from UK GAAP or IAS to another GAAP which is neither UK GAAP nor IAS if the fund applies for approval in advance. Regulation 4.4.3. will also apply in these circumstances.

CHAPTER 5

THE COMPUTATION OF REPORTABLE INCOME

This Chapter gives effect to paragraphs 3.21 to 3.31 of OF:NS.

General

4.5.1. Duty to provide computation

- (1) A reporting fund must provide a computation of its reportable income for a period of account.
- (2) This Chapter explains how reportable income is computed.

The starting point

4.5.2. Figures to be used in computation

- (1) The starting point for calculating the reportable income of a reporting fund for a period of account is–
 - (a) in a case in which the fund uses International Accounting Standards in preparing its accounts, the "total recognised income and expense for the period" as that expression is used in International Accounting Standards 1, or
 - (b) in any other case, an equivalent amount.
- (2) The amount specified in paragraph (1) must be adjusted for–
 - (a) capital items (see regulations [4.5.3] and [4.5.4]), and
 - (b) special classes of income (see regulations [4.5.5] to [4.5.10]).

See paragraphs 3.28 to 3.31 of OF:NS. This regulation recognises that "total recognised income and expense for the period" (the starting point for calculations) must be adjusted to be a broadly equivalent outcome as applies to UK AIFs, and that this starting point includes items which in the IMA SORP are capital gains and losses.

Adjustments for capital items

4.5.3. Treatment of capital items following IMA SORP

- (1) The capital items for which an adjustment is required must be identified in accordance with the following definitions in the Investment Managers Association's Statement of Recognised Practice ("IMA SORP")—
 - (a) Net Gains or losses on investments in the period;
 - (b) Other gains or losses.
- (2) The amount specified in regulation [4.5.2](1) must be adjusted by—
 - (a) deducting gains that fall within the headings specified in paragraph (1), and
 - (b) adding losses that fall within those headings.

See paragraphs 3.28 to 3.31 of OF:NS. This regulation recognises that "total recognised income and expense for the period" must be adjusted for items which in the IMA SORP are capital gains and losses not recognised in an income statement.

4.5.4. Treatment of other capital items

- (1) The amount specified in regulation [4.5.2](1) must also be adjusted by adding the amounts specified in paragraph (2).
- (2) Those amounts are—
 - (a) expenses directly related to acquisition or disposal of investments (other than those taken into account in arriving at the amounts specified in sub-paragraph (a) or (b) of regulation [4.5.3](1)), and
 - (b) costs relating to the setting up, merger or dissolution of the fund.

See paragraphs 3.28 to 3.31 of OF:NS. This regulation recognises that "total recognised income and expense for the period" must be adjusted for capital expenses not taken into account in the capital gains and losses

Adjustments for special classes of income

4.5.5. Income from wholly-owned subsidiaries

- (1) This regulation applies if an offshore fund has a wholly-owned subsidiary.
- (2) For the purposes of this regulation, a company is a wholly-owned subsidiary of an offshore fund if and so long as the whole of the issued share capital of the company is—
 - (a) in the case of an offshore fund falling within paragraph (a) of the definition of "offshore fund" in section 756A(1) of ICTA, directly and beneficially owned by the fund;
 - (b) in the case of an offshore fund falling within paragraph (b) of the definition of "offshore fund" in that enactment, directly owned by the trustees of the fund for the benefit of the fund;
 - (c) in the case of an offshore fund falling within paragraph (c) of the definition of "offshore fund" in that enactment, owned in a manner which, as near as may be, corresponds either to paragraph (a) or paragraph (b) above.

- (3) But in the case of a company which has only one class of issued share capital, the reference in paragraph (2) to the whole of the issued share capital shall be construed as a reference to at least 95 per cent of that share capital.
- (4) That percentage of the receipts, expenditure, assets and liabilities of the subsidiary which is equal to the percentage of the issued share capital of the company concerned which is owned as mentioned in paragraph (2) shall be regarded as the receipts, expenditure, assets and liabilities of the fund.
- (5) There shall be left out of account the interest of the fund in the subsidiary and any distributions or other payments made by the subsidiary to the fund or by the fund to the subsidiary.
- (6) The adjustments required under regulations [4.5.3] and [4.5.4] must be made to the amount determined under paragraph (4).

This Regulation derives from paragraph 11 Schedule 27 ICTA. See also Chapter 4 of OF:NS and Chapter 4 of OF: DP.

4.5.6. Income from bond funds

- (1) This regulation applies if a reporting fund has an interest in a bond fund.
- (2) In these Regulations, a “bond fund” means an offshore fund which fails to satisfy the non-qualifying investments test in paragraph 8 of Schedule 10 to FA 1996 (“paragraph 8”) at any time in the period of account.
- (3) The income of the reporting fund from the bond fund must be computed in the manner specified in paragraph 8.

See Chapter 4 of OF:NS and Chapter 4 of OF: DP.

4.5.7. Income from other reporting funds

- (1) This regulation applies if a reporting fund (“RF1”) has an interest in another reporting fund (“RF2”).
- (2) The income of RF1 from RF2 is the income reported by RF2 in respect of RF1.
- (3) The amount specified in paragraph (2) must be deducted from the amount specified in regulation [4.5.2](1) before any adjustments are made under regulations [4.5.3] and [4.5.4].
- (4) The amount specified in paragraph (2) must be added back to the amount specified in regulation [4.5.2](1) after making those adjustments.

See Chapter 4 of OF:NS and Chapter 4 of OF: DP.

4.5.7A. Date of recognition by RF1 of income from RF2

- (1) The adjustments specified in paragraphs (3) and (4) of regulation [4.5.7] must be made in the computation of the reportable income of RF1 for the period of account specified in this regulation.
- (2) The basic rule is that the period of account specified for the purposes of this regulation is the period of account in which the fund distribution date of RF2 falls.

The basic rule is subject to the following provisions of this regulation.

- (3) If the date on which any part of the income is recognised in the accounts of RF 1 (the “earlier date”) is earlier than the fund distribution date of RF2–
 - (a) the adjustments relating to the part of the income so recognised must be made in the computation of reportable income for the period of account in which the earlier date falls, and
 - (b) the adjustments relating to the remainder of the income must be made in the computation of reportable income for the period of account in which the distribution date of RF 2 falls.
- (4) If the fund distribution date of RF 2 is determined in accordance with regulation [4.7.1](3)(b), RF 1 must–
 - (a) include its best estimate of reported income from RF 2–
 - (i) in its accounts for the period in which the latest possible fund distribution date for RF 2 falls, or
 - (ii) as an adjustment to the computation of its reportable income for the period of account in which the latest possible fund distribution date for RF 2 falls, and
 - (b) make any necessary corrections to its best estimate in its computation of reportable income for the first later period of account in which it has sufficient information to make those corrections.
- (5) In this regulation “RF 1” and “RF 2” have the same meaning as in regulation [4.5.7].

This regulation provides a rule for the timing of the recognition of income from investments in other reporting funds in the reported income calculation.

4.5.8. Income from non-reporting funds: first case

- (1) The regulation applies if–
 - (a) a reporting fund has an interest in a non-reporting fund, and
 - (b) the conditions in paragraph (2) are met for a period of account.
- (2) The conditions are that–
 - (a) the non-reporting fund is not a bond fund;
 - (b) the reporting fund is able to demonstrate that the main purpose or one of the main purposes of the investment in the non-reporting fund is not the deferral or avoidance of United Kingdom tax;
 - (c) the reporting fund has access to the accounts of the non-reporting fund;
 - (d) the reporting fund has sufficient information about the non-reporting fund to enable it to prepare a computation of reportable income for the non-reporting fund; and
 - (e) the reporting fund can reasonably expect to be able to rely on continued access to that information for the period in which it will hold the investment in the non-reporting fund.
- (3) Regulation [4.5.7] applies as if the non-reporting fund were RF2.

See Chapter 4 of OF:NS and Chapter 4 of OF: DP.

4.5.9. Income from non-reporting funds: second case

- (1) This regulation applies if a reporting fund has an interest in a non-reporting fund, but the conditions in regulation [4.5.8](2) are not met for a period of account.
- (2) No adjustments may be made under regulations [4.5.3] and [4.5.4].

See Chapter 4 of OF:NS and Chapter 4 of OF: DP.

4.5.10. Income from non-reporting funds if first case ceases to apply

- (1) The regulation applies if—
 - (a) a reporting fund has an interest in a non-reporting fund, and
 - (b) after the conditions in regulation [4.5.8](2) have been met for an earlier period of account, those conditions are no longer met for a later period of account
- (2) Regulation [4.5.9] applies for the later period of account and for all subsequent periods of account.

See Chapter 4 of OF:NS and Chapter 4 of OF: DP.

Reported income

4.5.11. Reported income for a period of account

- (1) The reported income of a reporting fund for a period of account is the reportable income of the reporting fund for a period of account, after any amount which is disregarded under regulation [4.9.4], and computed in accordance with regulations [4.5.2] to [4.5.10].
- (2) But if the computation gives rise to a negative amount, the reported income is nil.

See Paragraphs 3.35 to 3.43 of OF:NS.

More than one class of interest

4.5.12. Different classes of interest

- (1) This regulation applies if there is more than one class of interest in the reporting fund (see section 756C of ICTA and regulation [2.1.4]).
- (2) The reportable income attributable to each class of interest is determined in accordance with the following rules—

First rule

Apportion the reportable income in the proportion that the share of capital attributable to that class of interest bears to the total capital.

Second rule

Deduct those charges or expenses applying specifically to that class of interest.

See Paragraphs 2.12 and 3.35 to 3.43 of OF:NS. This regulation enables the calculated reported income of a fund to be apportioned to a particular share class.

CHAPTER 6

REPORTS TO PARTICIPANTS

4.6.1. The report to participants

- (1) A reporting fund must provide a report to each participant for each reporting period.
- (2) In these Regulations a “reporting period” of a reporting fund means a period determined in accordance with the following rules–

First rule

If the reporting fund’s period of account is twelve months or less, the reporting period is the same as the period of account.

Second rule

If the reporting fund’s period of account is more than twelve months, there are two reporting periods.

The first reporting period is a period consisting of the first twelve months of the period of account.

The second reporting period is a period consisting of the remainder of the period of account.

- (3) The reporting fund must provide the report within a period of six months beginning on the day immediately following the final day of the reporting period.
- (4) [Marker for meaning of “provide a report” in paragraph (1).]

See paragraphs 3.17, 3.39 and 3.37 of OF:NS. Note that it is intended that it will be possible to satisfy this provision without having to send paper vouchers to each investor (see paragraph 3.46 of OF:NS). Comments on the mechanics of this process, in line with the intention expressed in paragraph 3.46, are welcome.

4.6.2. Contents of report to participants

- (1) The report to participants must include the following information–
 - (a) a statement of the income of the fund deemed to be distributed to the participants (see regulation [4.7.1]);
 - (b) a statement of the amount actually distributed to the participants;
 - (c) the fund distribution date;
 - (d) a statement of the aggregate of the amounts specified in sub-paragraphs (a) and (b) per unit of interest in the fund;
 - (e) [marker: rounding of per unit amount and constant NAV funds];
 - (f) a statement whether or not the fund remains a reporting fund at the date the fund provides the report.

- (2) The date on which the income mentioned in paragraph (1)(a) is deemed to be distributed is determined in accordance with the following rules—

First rule

If the fund provides the report within a period of six months beginning on the day immediately following the final day of the reporting period, the date of the deemed distribution is the date on which the fund provides the report.

Second rule

If the fund does not provide the report within a period of six months beginning on the day immediately following the final day of the reporting period, the date of the deemed distribution is the final day of that reporting period.

- (3) This regulation is subject to regulation [4.6.3].

See paragraphs 3.42, 5.7 and 5.8 of OF:NS. As indicated at (2)(d) this regulation will be further developed.
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4.6.3. Lengthy periods of account where full information not available

- (1) This regulation applies if a reporting fund—
- (a) has a period of account which is longer than twelve months, and
 - (b) has difficulty in computing its reportable income for the reporting period constituting the first twelve months of that period of account (the “relevant reporting period”).
- (2) For the purpose of preparing its report to participants for the relevant reporting period, the fund may elect—
- (a) to calculate its reportable income based on such information as is reasonably available, or
 - (b) to make a just and reasonable apportionment of the income of the period of account.
- (3) The reported income for the reporting period following the relevant reporting period must include all amounts not accounted for in the relevant reporting period.

See paragraph 3.37 of OF:NS.

CHAPTER 7

THE TAX TREATMENT OF PARTICIPANTS IN REPORTING FUNDS

Tax treatment of the reported income of the fund in the hands of participants

4.7.1. The reported income of the fund: general provisions

- (1) The Tax Acts shall have effect as if the excess (if any) of the reported income of a reporting fund for a reporting period over the distributions made by the fund for the reporting period were additional distributions made to the participants in the fund in proportion to their rights.
- (2) The distributions made by a reporting fund for a reporting period and the excess specified in paragraph (1) are treated as made on the fund distribution date.

- (3) In these Regulations the “fund distribution date” for a reporting period of a reporting fund means—
- (a) in a case where the reporting fund issues its report to participants within a period of six months beginning with the day immediately following the last day of the reporting period, the date on which the report is issued, and
 - (b) in any other case, the last day of the reporting period.

See paragraph 5.4 to 5.15 of OF:NS. The structure of these regulations is that any excess of reported income over actual distributions is treated as if it were also an actual distribution. The fund is not treated as if it were transparent for any tax purposes.

4.7.2. Participants chargeable to income tax

- (1) This regulation applies if a distribution is made by a reporting fund for a reporting period to a participant chargeable to income tax.
- (2) This regulation also applies if some or all of the excess specified in regulation [4.7.1](1) is treated as made to such a participant.
- (3) Any amount to which paragraph (1) or (2) applies is charged to income tax under Chapter 4 of Part 4 of ITTOIA 2005 (savings and investment income: dividends from non-UK resident companies).

See paragraph 5.9 to 5.12 of OF:NS. Both an actual and a deemed distribution is expressly treated as a dividend from a non-UK company. This means that the aggregate of actual and deemed amounts is the amount to which the tax credit given by Part 1 of Schedule 12 to the Finance Bill will apply.

4.7.3. Participants chargeable to corporation tax

- (1) This regulation applies if some or all of the excess specified in regulation [4.7.1](1) is treated as made to a participant chargeable to corporation tax.
- (2) The amount is charged to corporation tax under Case V of Schedule D.

See paragraph 5.13 to 5.15 of OF:NS. A deemed distribution is expressly treated as Case V income in the same way as actual distribution

The matching of reported income with distributions

4.7.5. Distributions exceeding reported income

- (1) This regulation applies if the distributions made by a reporting fund during a reporting period exceed the reported income of the fund for that period.
- (2) [To be continued.]

No decision on the approach to this issue has been made.

Disposals and deemed disposals of holdings

4.7.6. Disposals of holdings

- (1) A participant who disposes of his holding in a reporting fund disposes of an asset for the purposes of tax in respect of chargeable gains.

- (2) For the purposes of the disposal referred to in paragraph (1), an amount equal to the accumulated income is treated as expenditure of an amount given for the acquisition of the asset which falls within section 38(1)(a) of TCGA 1992 (acquisition and disposal costs).
- (3) In paragraph (2) the “accumulated income” means the aggregate of amounts falling within regulation [4.7.1] which have been charged to tax under regulation [4.7.2] or [4.7.3].
- (4) The expenditure mentioned in paragraph (2) is treated as incurred on the fund distribution date for the reporting period in which the disposal referred to in paragraph (1) takes place.

See paragraphs 5.9 to 5.11 OF:NS. This regulation is modelled on section 99B TCGA which applies to an investment in an accumulating AIF.

4.7.7. Deemed disposals of holdings

- (1) This regulation applies in the case of an offshore fund which ceases to be a reporting fund and becomes a non-reporting fund.
- (2) A participant in the fund may make an election to be treated for the purposes of TCGA 1992–
 - (a) as disposing of a holding in the reporting fund at the end of the reporting fund’s final period of account, and
 - (b) as acquiring a relevant interest in the non-reporting fund at the beginning of the fund’s next period of account.

This is subject to paragraph (3).

- (3) The election mentioned in paragraph (2) may only be made if the participant has received a report under regulation [4.6.1] for the period of account mentioned in paragraph (2)(a).
- (4) The disposal referred to in paragraph (2)(a) is treated as made for a consideration equal to the net asset value of the participant’s interest in the fund at the end of the period of account following that for which the final reported income is reported to and declared by the participant.
- (5) The acquisition referred to in paragraph (2)(b) is treated as made for the same amount as the disposal referred to in paragraph (2)(a).
- (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 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 disposal date.
- (8) In this regulation–
 - “company tax return” has the same meaning as in Schedule 18 to the Finance Act 1998;
 - “disposal date” means the final day of the reporting fund’s final period of account.

This Regulation derives from paragraphs 5.16 to 5.26 of OF:NS.

CHAPTER 8

THE PROVISION OF INFORMATION TO HMRC

4.8.1. Annual reporting requirements

- (1) An reporting fund must provide the following information to HMRC in relation to each period of account—
 - (a) its audited financial statements (see Chapter 4);
 - (b) its computation of its reported income for the period of account based on its audited financial statements (see Chapter 5);
 - (c) its computation of the reported income of each UK participant for the period of account (with the name and address of the participant) (see Chapter 6); and
 - (d) a declaration confirming that it has complied with those requirements throughout the period of account.
- (2) The information specified in paragraph (1) must be provided within six months of the end of the period of account.

This Regulation derives from Chapter 3 of OF:NS.

4.8.2. Enquiries into obligations of reporting funds

- (1) An officer of Revenue and Customs may give notice requiring a reporting fund or its managers, within such time, not being less than 28 days, as is specified in the notice, to provide any information, particulars or documents, in the possession or power of the reporting fund or its managers as the officer may reasonably require for the purposes of determining whether the fund has met or continues to meet its obligations under Chapter 3 of this Part.
- (2) The reporting fund is in breach of a requirement imposed in this Part of these Regulations which is not minor or inadvertent if—
 - (a) the fund fails, or its managers fail, to provide the information, particulars or documents within the time specified in the notice, and
 - (b) there is no appeal against the notice within the time specified in paragraph (5).
- (3) A person to whom a notice under paragraph (1) is given may appeal to the Commissioners.
- (4) The appeal is to the General Commissioners, except that the appellant may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring the appeal before the Special Commissioners instead of the General Commissioners
- (5) The notice of appeal must be given to HMRC within a period of 42 days beginning with the day on which the notice under paragraph (1) is given.
- (6) On an appeal, the Commissioners may uphold, vary or quash the notice.
- (7) The reporting fund is in breach of a requirement imposed in this Part of these Regulations which is not minor or inadvertent if—

- (a) the Commissioners vary the notice,
- (b) the fund fails, or its managers fail, to provide the information, particulars or documents within the time specified in the notice (as so varied), and
- (b) there is no appeal against the decision of the Commissioners.

This Regulation derives indirectly from Chapter 3 of OF:NS, and in particular paragraph 3.7.

CHAPTER 9

BREACHES OF REPORTING FUND REQUIREMENTS

4.9.1. Ambit of this Chapter

- (1) This Chapter applies if a reporting fund is in breach of a requirement imposed in this Part of these Regulations.
- (2) Those breaches include—
 - (a) discrimination between participants in respect of different classes of interest (see regulation [4.3.2]).
 - (b) a failure to provide a report to each participant within the specified period (see regulation [4.6.1]);
 - (c) a failure to provide a report to HMRC within the specified period (see regulation [4.8.1]);
 - (d) a failure to provide any information, particulars or documents in a case falling within paragraph (2) or (7) of regulation [4.8.2];
 - (e) the provision of a report that is incorrect or incomplete;
 - (f) the submission of accounts for a period of account that is longer than 18 months;

See paragraphs 3.53 to 3.61 of OF:NS.

4.9.2. Breaches that are de minimis

- (1) An offshore fund continues to be treated as a reporting fund if—
 - (a) the breach is minor or inadvertent and remedied without undue delay, or
 - (b) there is a reasonable excuse for the breach.
- (2) This regulation is subject to paragraph (3) and to the following provisions of this Chapter.
- (3) If there have been three breaches falling within paragraph (1) in a period of ten years beginning with the first day of the period of account in which the first breach occurs—
 - (a) the third breach is treated as not being minor or inadvertent, and
 - (b) no excuse for that breach is treated as reasonable.

See paragraphs 3.53 to 3.61 of OF:NS. It gives the “three strikes and you’re out” rule for minor breaches within 10 years

4.9.3. Provision of an annual report that is incorrect or incomplete

- (1) This regulation applies if a reporting fund provides a document specified in paragraph (2) that is incorrect or incomplete.
- (2) The documents specified are—
 - (a) the report to participants in accordance with the requirements of Chapter 6 of this Part, and

- (b) the report to HMRC in accordance with the requirements of Chapter 8 of this Part.
- (3) The reporting fund must provide a correct document without undue delay from the time the fund discovers that the report is incorrect or incomplete.
- (4) If the reporting fund does not do so, the fund is in breach of a requirement imposed in this Part of these Regulations which is not minor or inadvertent.

See paragraphs 3.53 to 3.61 of OF:NS.

4.9.4. Incorrect statements of reported income

- (1) This regulation applies if there is a difference between the reported income and the reportable income of a reporting fund for a period of account.
- (2) If the difference between the reported income and the reportable income is less than 10% of the amount given by regulation [4.5.2], the error is ignored.
- (3) If the difference between the reported income and the reportable income is between 10% and 15% of the amount given by regulation [4.5.2], the reported income of the fund for the period of account in question must be adjusted by adding an amount equal to the amount by which the reported income fell below 90% of the reportable income to the reported income for the following period of account.
- (4) If the adjustment is not made in the period of account following, or next following, the period of account in question—
 - (a) the fund is in breach of a requirement imposed in this Part of these Regulations, and
 - (b) the breach is not minor or inadvertent.
- (5) If the difference between the reported income and the reportable income is more than 15% of the amount given by regulation [4.5.2], the reporting fund must make a supplementary report to participants for the period of account in which the difference occurs.
- (6) If the supplementary report is not made before the end of the reporting period in which the error is established—
 - (a) the fund is in breach of a requirement imposed in this Part of these Regulations, and
 - (b) the breach is not minor or inadvertent.

See paragraph 3.49 of OF:NS.

4.9.5. Breach that is not minor or inadvertent

- (1) This regulation applies if—
 - (a) the breach is not minor or inadvertent, or
 - (b) there is no reasonable excuse for the breach.
- (2) The fund is treated as a non-reporting fund for the reporting period in which the breach is discovered and for all subsequent reporting periods.

- (3) If regulation [4.8.2](2) applies, the fund is treated as a non-reporting fund for the reporting period in which the notice is given and for all subsequent reporting periods
- (4) If regulation [4.8.2](7) applies, the fund is treated as a non-reporting fund for the reporting period in which the notice as varied is given and for all subsequent reporting periods

See paragraph 3.57 of OF:NS.

CHAPTER 10

LEAVING THE REPORTING FUND REGIME

4.10.1. Termination by notice given by reporting fund

- (1) If a reporting fund gives a notice under this regulation specifying a day (the “specified day”) at the end of which this Part of these Regulations is to cease to apply to the fund, this Part shall cease to apply to the fund at the end of that day.
- (2) The specified day must be the last day of a period of account of the reporting fund.
- (3) The notice must be given in writing to the participants in the fund and to HMRC.
- (4) The notice must be given before the beginning of a period of [xx] days ending with the specified day.
- (5) Paragraphs (6) and (7) apply if the reporting fund gives notice under paragraph (1) with the intention of becoming a bond fund after the specified day.
- (6) In the case of a participant chargeable to income tax, the fund may still be treated as a reporting fund after the specified day.
- (7) After the specified day, a participant chargeable to corporation tax is charged to that tax in accordance with the provisions of Schedule 10 to FA 1996.

This Regulation provides for voluntary withdrawal from the regime.

PART 5

CONSEQUENTIAL AMENDMENTS

These regulations in the Part make necessary changes as a result of the prospective repeal by clause 39 of the Finance Bill of all of Chapter 5 Part 17 except the definitions and the new power to make regulations in section 756D.

5.1.1. Amendment of the Inheritance Tax Act 1984

In section 174(1)(a) of the Inheritance Tax Act 1984 (income tax and unpaid inheritance tax) for “Chapter V of Part XVII of the Taxes Act 1988, arising on a disposal which is deemed to incur on the death by virtue of section 757(3) of that Act” substitute “regulations made under section [38](1) of the Finance Act 2008, arising on a disposal which is deemed, under such regulations, to occur on the death (as at [date], see [Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.

5.1.2. Amendment of ICTA

- (1) ICTA is amended as follows.
- (2) In section 396(2) (Case VI losses) for “Chapter 5 of Part 17 applies) substitute “regulations made under section [38](1)of the Finance Act 2008 apply (as at [date], see [Chapter 4 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (3) In section 505(3)(b)(iii) (charitable companies) for “section 761(6) below” substitute “regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [regulation 3.2.4] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (4) In section 842(3A) (meaning of investment trust) for “section 761(1)(a)” substitute “regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [regulation 3.2.1(2)] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.

5.1.3. Amendment of TCGA 1992

- (1) TCGA 1992 is amended as follows.
- (2) In section 108(1)(c) (identification of relevant securities)–
 - (a) omit “, or have at any time been,” and
 - (b) for “material interests in a non-qualifying offshore fund, within the meaning of Chapter V of Part XVII of that Act” substitute “relevant interests in a non-reporting fund, within the meaning of regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [Chapter 3 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (3) In section 212 (annual deemed disposal of holdings of unit trusts, etc.)–
 - (a) in subsection (5)(a) for “a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act” substitute “a relevant interest in a non-reporting fund, within the meaning of regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [Chapter 3 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”, and
 - (b) in subsection (6A)(a) for “subsections (6) and (8) of section 759 of that Act” substitute “regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [regulations 3.3.4 and 3.3.5] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (4) In paragraph 7 of Schedule 7AD (gains of insurance company from venture capital investment partnership: disposal of partnership asset giving rise to offshore income gain)–
 - (a) in sub-paragraph (1) for “Chapter 5 of Part 17 of the Taxes Act (offshore funds)” substitute “regulations made under section [38](1)of the Finance Act 2008 (as at [date], see [Chapter 3 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”, and
 - (b) in sub-paragraph (2) for “that Chapter” substitute “such regulations”.

5.1.4. Amendment of FA 1996

In paragraph 7(1)(a) of Schedule 10 to FA 1996 (loan relationships: collective investment schemes: meaning of offshore funds) for “a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act 1988” substitute “a relevant interest in a non-reporting fund for the purposes of regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [Chapter 3 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.

5.1.5. Amendment of ITTOIA 2005

In section 632 of ITTOIA 2005 (offshore income gains)–

- (a) in subsection (2) for “section 761(1) of ICTA (charge to income tax of offshore income gain)” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [regulation 3.2.1] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”, and
- (b) in subsection (3) for “Chapter 5 of Part 17 of ICTA (charge to income tax of offshore income gains)” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [Chapter 5 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.

5.1.6. Amendment of ITA 2007

- (1) ITA 2007 is amended as follows.
- (2) In section 152(8) (losses from miscellaneous transactions) for “section 761(1)(b)(i) of ICTA” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [regulation 3.2.1] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (3) In section 482 (types of amount to be charged at special rates for trustees), in the description of “*Type 3*” for “section 761(1) of ICTA (offshore income gains)” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [regulation 3.2.1] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.
- (4) In section 535 (exemption for offshore income gains)–
 - (a) in subsection (3) for “Chapter 5 of Part 17 of ICTA (offshore funds) (see section 758 of, and Schedule 28 to, that Act)” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [Chapter 3 of Part 3] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”, and
 - (b) for subsection (4) substitute–
 - “(4) See also any provision of regulations made under section [38](1) of the Finance Act 2008 which–
 - (a) apply where property held on charitable trusts ceases to be subject to charitable trusts (as at [date], see [regulation 3.2.4(3)] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y])), and

(b) provide for any gain accruing in such circumstances to be treated as an offshore income gain not accruing to a charity (as at [date], see [regulation 3.2.4(3)] of those Regulations).”

(5) In section 1016(2) (table of provisions to which this subsection applies), in Part 3 of the Table, for “Section 761(1)(b)(i) of ICTA” substitute “regulations made under section [38](1) of the Finance Act 2008 (as at [date], see [regulation 3.2.1] of the Taxation of Offshore Funds Regulations [X] (S.I. [X]/[Y]))”.

[abc]

[xyz]

[xx/yy/zz]

Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE
ABBREVIATIONS AND DEFINED EXPRESSIONS

PART 1

ABBREVIATIONS OF ACTS

TMA 1970	The Taxes Management Act 1970 (c. 9)
ICTA	The Income and Corporation Taxes Act 1988 (c. 1)
TCGA 1992	The Taxation of Chargeable Gains Act 1992 (c. 12)
FA 1994	The Finance Act 1994 (c. 9)
FA 1996	The Finance Act 1996 (c. 8)
FISMA 2000	The Financial Services and Markets Act 2000 (c. 8)
FA 2002	The Finance Act 2002 (c. 23)
ITEPA 2003	The Income Tax (Earnings and Pensions) Act 2003 (c. 8)
ITTOIA 2005	The Income Tax (Trading and Other Income) Act 2005 (c. 5)
FA 2006	The Finance Act 2006 (c. 25)
ITA 2007	The Income Tax Act 2007 (c. 3)
FA 2008	The Finance Act 2008 (c. [x])

PART 2

INDEX OF EXPRESSIONS DEFINED OR OTHERWISE EXPLAINED IN THESE REGULATIONS

Applicant	Regulation 4.2.1(3)
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Basic gain	Chapter 5 of Part 3
Bond fund	Regulation 4.5.6(2)
Existing fund application	Regulation 4.2.1(3)
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Future fund application	Regulation 4.2.1(3)
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Material disposal	Regulation 3.1.2
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Prospectus	Regulation 1.1.3
Reportable income	Chapter 5 of Part 4
Reported income	Regulation 4.5.11
Reporting fund	Regulation 4.1.2
Reporting period	Regulation 4.6.1(2)
TCGA disposal (in Chapter 6 of Part 3)	Regulation 3.6.1(2)
Umbrella fund	Regulation 2.1.3(1)

EXPLANATORY NOTE

(This Note is not part of the Regulations)

[To follow.]