

## **Chapter 1: Authorised investment funds**

### **Overview**

1. This Chapter rewrites sections 468, 468A and 469A of ICTA and provides rules about authorised investment funds.

2. The term “authorised investment funds” is not defined in this Chapter because it is not used in the body of the clauses. But it is defined in other legislation and is commonly understood to refer to both open-ended investment companies (OEICs) and authorised unit trusts (AUTs). The Chapter also provides rules about common court investment funds (CCIFs), which are treated as AUTs.

### **Clause 1: Overview of Chapter**

3. This clause provides an overview of what is in the Chapter. It is new.

### **Clause 2: Meaning of “open-ended investment company”**

4. This clause sets out the definition of an “open-ended investment company”. It is based on section 468A(2) of ICTA.

### **Clause 3: Applicable corporation tax rate**

5. This clause, which is based on section 468A(1) of ICTA as amended by paragraph 42 of Schedule 1 to FA 2008, provides that the rate of corporation tax applicable to an OEIC is the income tax basic rate (see section 6 of ITA).

### **Clause 4: Umbrella companies**

6. This clause sets out the definition of “umbrella company” and how such a company is treated. It is based on section 468A(3) and (4) of ICTA.

7. An umbrella company is an OEIC whose investments are pooled separately in sub-funds which may have different investment objectives. As in section 235 of FISMA, this practice is referred to in this clause in terms of separate pooling and separate parts. References in the clause to a part of an umbrella company are to a separate pool (*subsection (2)*).

8. Each separate part of an umbrella company is treated as a separate OEIC while the umbrella company as a whole is not treated as an OEIC. This mirrors the provision made for umbrella schemes by clause 8.

### **Clause 5: Meaning of “authorised unit trust” and “unit holder”**

9. This clause defines these terms for the purposes of the Chapter. It is based on section 468(6) of ICTA.

### **Clause 6: Authorised unit trust treated as UK resident company**

10. This clause, which is based on section 468(1) and (3) of ICTA, provides that the Tax Acts have effect as if the trustees of an AUT were a UK resident company, and as if the rights of the unit holders were shares in the company.

11. Detailed rules for the taxation of both an AUT as an institution, and of unit holders as investors, are set out in the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964).

12. *Subsection (3)* makes it clear that the treatment in *subsection (1)(b)* does not affect the rules which enable an AUT to make distributions which are interest distributions to unit holders. The term “interest distribution” is currently defined in regulation 18(3) of SI 2006/964.

**Clause 7: Applicable corporation tax rate**

13. This clause states that a special rate of corporation tax is applicable to AUTs. It is based on section 468(1A) of ICTA as amended by paragraph 41 of Schedule 1 to FA 2008. The provision made here corresponds to that made for OEICs by clause 3.

14. The applicable rate is the income tax basic rate (see section 6 of ITA).

**Clause 8: Umbrella schemes**

15. This clause sets out the definition of an “umbrella scheme” and how such a scheme is treated. It is based on section 468(7), (8) and (9) of ICTA.

16. An umbrella scheme is a fund which is divided into sub-funds which may have different investment objectives. As in section 235 of FISMA, this practice is referred to in this clause in terms of separate pooling and separate parts. References in the clause to a part of an umbrella scheme are to the pooling arrangements that relate to a separate pool.

17. Each separate part of an umbrella scheme is treated as a separate AUT while the umbrella scheme as a whole is not treated as an AUT. This mirrors the provision made for umbrella companies by clause 4.

**Clause 9: Court common investment funds**

18. This clause sets out the treatment of CCIFs. It is based on section 469A of ICTA.

19. A CCIF is an investment fund set up under section 42 of the Administration of Justice Act 1982. A CCIF is not an investment option available to the general public.

20. The effect of the clause is that the Tax Acts apply to a CCIF as if it were an AUT (with the investment manager of the fund in the role of trustee) and as if the persons with qualifying interests in the fund (see the table at *subsection (3)*) were unit holders in the AUT.

21. The square brackets in *subsection (4)* reflect the fact that there is not yet a commencement order for the consequential amendments made to the definition of “Accountant General” by paragraph 29 of Schedule 11 to the Constitutional Reform Act 2005.