

## STATUTORY INSTRUMENTS

# 2006 No. 964

## The Authorised Investment Funds (Tax) Regulations 2006

### [<sup>F1</sup>PART 4A

#### PROPERTY AIFS

##### CHAPTER 2

##### ENTRY INTO AND MEMBERSHIP OF THE PROPERTY AIF REGIME

##### *[<sup>F1</sup>The corporate ownership condition*

#### Textual Amendments

- F1** Pt. 4A inserted (6.4.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2008 \(S.I. 2008/705\)](#), regs. 1, 5

#### **The corporate ownership condition**

**69K.**—(1) The corporate ownership condition is that the open-ended investment company must meet conditions A to C and (if applicable) condition D at the time that this Part begins to apply to the company and throughout the accounting period.

This is subject to regulation 69L(1).

(2) Condition A is that no body corporate is beneficially entitled (directly or indirectly) to 10% or more of the net asset value of the fund.

(3) Condition A is treated as met if—

- (a) the company has taken reasonable steps to prevent a body corporate from acquiring a holding of 10% or more of the net asset value of the fund,
- (b) a body corporate has nevertheless acquired such a holding,
- (c) immediately upon becoming aware of the situation, the company has taken steps to ensure that the holding is reduced below 10% of the net asset value of the fund, and
- (d) the company has continued, with all reasonable speed, to take steps to ensure that the holding is so reduced.

(4) Condition B is that the company's instrument of incorporation and its prospectus include provisions under which any body corporate which becomes a [<sup>F2</sup>participant] in the company—

- (a) must undertake not to acquire 10% or more of the share capital of the company, and
- (b) must undertake, on becoming aware that it has acquired 10% or more of the share capital of the company, to reduce its holding of that share capital below 10%.

(5) Condition C is that the company’s instrument of incorporation and its prospectus include provisions under which a body corporate acquiring shares in the company must give a certificate in accordance with paragraph (6) or (7).

(6) The certificate is a certificate that the body corporate acquiring shares holds the shares as beneficial owner.

(7) The certificate is a certificate that the body corporate acquiring shares holds some or all of those shares otherwise than as a beneficial owner, but that the body corporate—

- (a) holds less than 10% of the share capital of the company on behalf of itself or any one other corporate beneficial owner, and
- (b) has obtained the undertakings in the terms specified in sub-paragraphs (a) and (b) of paragraph (4) from every other body corporate on whose behalf it owns shares in the company otherwise than as a beneficial owner.

(8) Condition D is that, in a case in which the body corporate acquiring shares in the company gives a certificate in accordance with paragraph (7), the body corporate acquiring the shares has undertaken to disclose the following information to the manager of the company if the manager so requires—

- (a) the names of any body corporate on whose behalf the body corporate owns shares in the company otherwise than as a beneficial owner, and
- (b) the extent of the holding of that body corporate in the company.

#### Textual Amendments

- F2** Word in reg. 69K(4) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), 21

#### The corporate ownership condition: further provisions

**69L.**—(1) The open-ended investment company meets conditions B and C of the corporate ownership condition if it provides in its instrument of incorporation and its prospectus that a body corporate is prohibited from acquiring shares in the open-ended investment company.

(2) The open-ended investment company meets conditions B and C of the corporate ownership condition if—

- (a) it provides in its instrument of incorporation and its prospectus that a body corporate is prohibited from acquiring shares [<sup>F3</sup>as a participant] in the open-ended investment company,
- (b) a body corporate (“BC”) acquires shares in the open-ended investment company,
- (c) BC does not hold those shares as beneficial owner, and
- (d) BC gives a certificate in accordance with paragraph (3).

(3) The certificate is a certificate—

- (a) that BC does not hold any of the shares in the open-ended investment company as beneficial owner, and
- (b) that none of the beneficial owners of BC’s shares in the open-ended investment company is a body corporate.

(4) Paragraph (5) applies if the trustees of a unit trust scheme—

- (a) hold shares in the open-ended investment company, and

(b) are chargeable, in the United Kingdom, either to income tax or to corporation tax in their capacity as trustees of that unit trust scheme.

(5) For the purposes of regulation 69K [<sup>F4</sup>the unit trust scheme is treated] as the beneficial owners of the shares; and a person holding units in the unit trust shall not be treated as beneficially entitled (directly or indirectly) to 10% or more of the net asset value of the open-ended investment company's fund by virtue of holding the units.

(6) In this Part "body corporate" means—

(a) a body corporate incorporated under the laws of any part of the United Kingdom or any other territory, or

(b) an entity which is treated as a body corporate for tax purposes—

(i) in accordance with the law of a territory outside the United Kingdom with which relevant arrangements have been entered into, or

(ii) in accordance with an international agreement containing relevant arrangements.

(7) In paragraph (6) "relevant arrangements" means arrangements which—

(a) have been entered into with a view to affording relief from double taxation, and

(b) have effect by virtue of an Order in Council under section 788 of ICTA.]

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#### Textual Amendments

**F3** Words in reg. 69L(2)(a) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **22(2)**

**F4** Words in reg. 69L(5) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **22(3)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, Cross Heading: The corporate ownership condition.