

Status: Point in time view as at 14/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 98.

LOAN RELATIONSHIPS: COLLECTIVE INVESTMENT SCHEMES

Modifications etc. (not altering text)

C1 Sch. 10 modified (28.4.1997) by [S.I. 1997/1154](#), [reg.19\(1\)-\(10\)](#)

[^{F1}Investment trusts: capital profits, gains or losses]

Textual Amendments

F1 Sch. 10 paras. 1A, 1B and cross-headings substituted for Sch. 10 para. 1A and cross-heading (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 38](#)

^{F2}₁

Textual Amendments

F2 Sch. 10 para. 1A and cross-heading substituted (with effect in relation to accounting periods beginning on or after 1.10.2002) for Sch. 10 para. 1 and heading by [Finance Act 2002 \(c. 23\)](#), s. 82, [Sch. 25 Pt. 1 para. 37](#)

^{F1}1A (1) Capital profits, gains or losses arising to an investment trust from a creditor relationship must not be brought into account as credits or debits for the purposes of this Chapter.

- (2) For the purposes of this paragraph “capital profits, gains or losses”—
- (a) in the case of an investment trust that prepares accounts in accordance with UK generally accepted accounting practice, has the meaning given by sub-paragraphs (3) and (4), and
 - (b) in the case of an investment trust that prepares accounts in accordance with international accounting standards, has the meaning given by order made by the Treasury.
- (3) In the cases mentioned in sub-paragraph (2)(a) capital profits, gains or losses arising from a creditor relationship in an accounting period are profits, gains or losses that are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice.
- (4) For the purposes of this paragraph the Statement of Recommended Practice is, for an accounting period for which it is required or permitted to be used—

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- (a) the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2003, as from time to time modified, amended or revised, or
- (b) any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.

Venture capital trusts: capital profits, gains or losses

- 1B (1) Capital profits, gains or losses arising to a venture capital trust from a creditor relationship must not be brought into account as credits or debits for the purposes of this Chapter.
- (2) For the purposes of this paragraph “capital profits, gains or losses”—
- (a) in the case of a venture capital trust that prepares accounts in accordance with UK generally accepted accounting practice, has the meaning given by sub-paragraphs (3) and (4), and
 - (b) in the case of a venture capital trust that prepares accounts in accordance with international accounting standards, has the meaning given by order made by the Treasury.
- (3) In the cases mentioned in sub-paragraph (2)(a) capital profits, gains or losses arising from a creditor relationship in an accounting period are profits, gains or losses that—
- (a) are carried to or sustained by a capital reserve in accordance with the Statement of Recommended Practice as if the venture capital trust were an investment trust, or
 - (b) would be so carried to or sustained by a capital reserve if the venture capital trust were an investment trust and were using the Statement of Recommended Practice.
- (4) For the purposes of this paragraph the Statement of Recommended Practice is, in relation to an accounting period for which it is required or permitted to be used—
- (a) the Statement of Recommended Practice relating to Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2003, as from time to time modified, amended or revised, or
 - (b) any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.]

[^{F3} Authorised unit trusts][^{F4}: capital profits, gains or losses]

Textual Amendments

- F3** Sch. 10 paras. 2A, 2B and cross-headings substituted (with effect in relation to accounting periods beginning on or after 1.10.2002) for Sch. 10 para. 2 and heading by [Finance Act 2002 \(c. 23\)](#), s. 82, [Sch. 25 Pt. 1 para. 38](#)
- F4** Words in Sch. 10 para. 2A heading added (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 39\(2\)](#)

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- 2A ^{F5}(1) Where any profits, gains or losses arising to an authorised unit trust from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter ^{F6}....
- ^{F7}(1A) For the purposes of this paragraph “capital profits, gains or losses”—
- (a) in the case of an authorised unit trust that prepares accounts in accordance with UK generally accepted accounting practice, has the meaning given by sub-paragraphs (2) to (4), and
 - (b) in the case of an authorised unit trust that prepares accounts in accordance with international accounting standards, has the meaning given by order made by the Treasury.]
- (2) ^{F8}In the cases mentioned in sub-paragraph (1A)(a)], capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—
- (a) the heading “net gains/losses on investments during the period”, or
 - (b) the heading “other gains/losses”,
- in the statement of total return for the accounting period.
- (3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the authorised unit trust which deals with the accounting period.
- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Authorised Unit Trust Schemes issued by the Investment Management Regulatory Organisation Limited in January 1997, as from time to time modified, amended or revised; or
 - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to authorised unit trust schemes, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses ^{F9}in sub-paragraphs (2) to (4)] in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
- (a) to make different provision for different cases; and
 - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).]

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Textual Amendments

- F5** Sch. 10 para. 2A repealed (for the purposes of corporation tax and income tax, with effect as specified in art. 2(3) of the commencing S.I.) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), ss. 17(1)(b), 19(1), [Sch. 11 Pt. 2\(3\)](#); S.I. 2006/982, art. 2
- F6** Words in Sch. 10 para. 2A(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 39\(3\)](#), [Sch. 42 Pt. 2\(6\)](#)
- F7** Sch. 10 para. 2A(1A) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 39\(4\)](#)
- F8** Words in Sch. 10 para. 2A(2) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 39\(5\)](#)
- F9** Words in Sch. 10 para. 2A(5) inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 39\(6\)](#)

[^{F10}Open-ended investment companies [^{F11}: capital profits, gains or losses]

Textual Amendments

- F10** Sch. 10 paras. 2A, 2B and headings substituted (with effect in relation to accounting periods beginning on or after 1.10.2002) for Sch. 10 para. 2 and heading by [Finance Act 2002 \(c. 23\)](#), s. 82, [Sch. 25 Pt. 1 para. 38](#)
- F11** Words in Sch. 10 para. 2B heading added (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 40\(2\)](#)

2B [^{F12}(1) Where any profits, gains or losses arising to an open-ended investment company from a creditor relationship in an accounting period are capital profits, gains or losses, those profits, gains or losses must not be brought into account as credits or debits for the purposes of this Chapter^{F13}

[^{F14}(1A) For the purposes of this paragraph “capital profits, gains or losses”—

- (a) in the case of a company that prepares accounts in accordance with UK generally accepted accounting practice, has the meaning given by sub-paragraphs (2) to (4), and
- (b) in the case of a company that prepares accounts in accordance with international accounting standards, has the meaning given by order made by the Treasury.]

(2) [^{F15}In the cases mentioned in sub-paragraph (1A)(a)], capital profits, gains or losses arising from a creditor relationship in an accounting period are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—

- (a) the heading “net gains/losses on investments during the period”, or
- (b) the heading “other gains/losses”,

in the statement of total return for the accounting period.

(3) For the purposes of sub-paragraph (2) above, the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the open-ended investment company which deals with the accounting period.

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- (4) For the purposes of sub-paragraph (3) above, “Statement of Recommended Practice” means—
- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to Open-Ended Investment Companies issued by the Financial Services Authority in November 2000, as from time to time modified, amended or revised; or
 - (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to open-ended investment companies, as from time to time modified, amended or revised.
- (5) The Treasury may by order amend this paragraph so as to alter the definition of capital profits, gains or losses [^{F16}in sub-paragraphs (2) to (4)] in consequence of the modification, amendment, revision or replacement of a Statement of Recommended Practice.
- (6) The power to make an order under this paragraph includes power—
- (a) to make different provision for different cases; and
 - (b) to make such consequential, supplementary, incidental or transitional provision, or savings, as appear to the Treasury to be necessary or expedient (including provision amending any enactment or any instrument made under any enactment).]]

Textual Amendments

- F12** Sch. 10 para. 2B repealed (for the purposes of corporation tax and income tax, with effect as specified in art. 2(3) of the commencing S.I.) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(b), 19(1), **Sch. 11 Pt. 2(3)**; S.I. 2006/982, art. 2
- F13** Words in Sch. 10 para. 2B(1) repealed (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 10 para. 40(3), **Sch. 42 Pt. 2(6)**
- F14** Sch. 10 para. 2B(1A) inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 40(4)**
- F15** Words in Sch. 10 para. 2B(2) substituted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 40(5)**
- F16** Words in Sch. 10 para. 2B(5) inserted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 40(6)**

Distributing offshore funds

^{F17}3

Textual Amendments

- F17** Sch. 10 para. 3 repealed (with effect in accordance with Sch. 26 para. 1(3)-(6) of the amending Act) by Finance Act 2004 (c. 12), Sch. 26 para. 1(2), **Sch. 42 Pt. 2(18)** (with Sch. 26 para. 17)

Modifications etc. (not altering text)

- C2** Sch. 10 para. 3 savings for effects of 2004 c. 12, Sch. 26 para. 1(2) (with effect in accordance with reg. 1(2) of the amending S.I.) by The Offshore Funds Regulations 2004 (S.I. 2004/2572), regs. 1(1), **7(3)(a)**

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- C3** Sch. 10 para. 3 savings for effects of 2004 c. 12, Sch. 26 para. 1(2) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds Regulations 2004 \(S.I. 2004/2572\)](#), regs. 1(1), **6(3)(a)**

Company holdings in unit trusts and offshore funds

- 4 (1) This paragraph applies for the purposes of corporation tax in relation to any company where—
- (a) at any time in an accounting period that company holds any of the following (“a relevant holding”), that is to say, any rights under a unit trust scheme or any relevant interests in an offshore fund; and
 - (b) there is a time in that period when that scheme or fund fails to satisfy the non-qualifying investments test.
- (2) The Corporation Tax Acts shall have effect for that accounting period in accordance with sub-paragraphs (3) [^{F18}to (5)] below as if the relevant holding were rights under a creditor relationship of the company.
- [^{F19}(3) The debits and credits to be brought into account for the purposes of this Chapter as respects the company’s relevant holdings must be determined on the basis of fair value accounting.]
- (4) [^{F20}Sub-paragraph (3) shall not be taken, as respects any accounting period,] to require the bringing into account of any credit relating to any distributions of an authorised unit trust which become due and payable in that period other than interest distributions within the meaning of [^{F21}regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964)].
- [^{F22}(5) In determining the debits and credits under sub-paragraph (3) there shall be left out of account amounts relating to any investment or liability of the scheme or fund where—
- (a) the investment was made, or the liability was incurred, with the relevant avoidance intention, or
 - (b) any transaction (or series of transactions) was entered into in relation to the investment or liability with that intention.
- (6) The relevant avoidance intention is the intention of—
- (a) eliminating or reducing the credits to be brought into account for the purposes of this Chapter as respects the company’s relevant holdings, or
 - (b) creating or increasing the debits to be so brought into account.]

Textual Amendments

- F18** Words in Sch. 10 para. 4(2) substituted (with effect in accordance with [Sch. 5 para. 16\(4\)-\(7\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 5 para. 16(2)**
- F19** Sch. 10 para. 4(3) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 41(2)**
- F20** Words in Sch. 10 para. 4(4) substituted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 41(3)**
- F21** Words in Sch. 10 para. 4(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), **reg. 90(2)**

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F22 Sch. 10 para. 4(5)(6) inserted (with effect in accordance with Sch. 5 para. 16(4)-(7) of the amending Act) by Finance Act 2007 (c. 11), Sch. 5 para. 16(3)

Holding becoming or ceasing to be paragraph 4 holding

- 5 (1) Section 116 of the 1992 Act (reorganisations etc. involving qualifying corporate bonds) shall have effect in accordance with the assumptions for which this paragraph provides if—
- (a) a relevant holding is held by a company both at the end of one accounting period and at the beginning of the next; and
 - (b) paragraph 4 above applies to that holding for one of those periods but not for the other.
- (2) Where—
- (a) the accounting period for which paragraph 4 above applies to the relevant holding is the second of the periods mentioned in sub-paragraph (1) above, and
 - (b) the first of those periods is not a period ending on 31st March 1996 or a period at the end of which there is deemed under section 212 of the 1992 Act to have been a disposal of the relevant holding,
- the holding shall be assumed to have become a holding to which paragraph 4 above applies for the second of those periods in consequence of the occurrence, at the end of the first period, of a transaction such as is mentioned in section 116(1) of that Act.
- (3) In relation to the transaction that is deemed to have occurred as mentioned in sub-paragraph (2) above—
- (a) the relevant holding immediately before the beginning of the second accounting period shall be assumed to be the old asset for the purposes of section 116 of the 1992 Act; and
 - (b) the relevant holding immediately after the beginning of that period shall be assumed for those purposes to be the new asset.
- (4) Where the accounting period for which paragraph 4 above applies to the relevant holding is the first of the periods mentioned in sub-paragraph (1) above, then, for the purposes of the 1992 Act—
- (a) the holding shall be assumed to have become a holding to which paragraph 4 above does not apply for the second of those periods in consequence of the occurrence at the beginning of the second of those periods of a transaction such as is mentioned in section 116(1) of that Act;
 - (b) the relevant holding immediately before the beginning of that second period shall be assumed, in relation to that transaction, to be the old asset for the purposes of section 116 of the 1992 Act; and
 - (c) the relevant holding immediately after the beginning of that period shall be assumed, in relation to that transaction, to be the new asset for those purposes.
- (5) In this paragraph “the 1992 Act” means the ^{M1}Taxation of Chargeable Gains Act 1992.

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Marginal Citations

M1 1992 c. 12.

Opening valuation of paragraph 4 holding

- 6 Where—
- (a) paragraph 5(2) above applies in the case of any relevant holding of a company, and
 - (b) for the purpose of bringing amounts into account for the purposes of this Chapter on the mark to market basis used for that period in pursuance of paragraph 4 above, an opening valuation of the holding falls to be made as at the beginning of that period,
- the value of that asset at the beginning of that period shall be taken for the purpose of the opening valuation to be equal to whatever, in relation to a disposal immediately before the end of the previous accounting period, would have been taken to be the market value of the holding for the purposes of the Taxation of Chargeable Gains Act 1992.

Meaning of offshore funds

- 7 (1) For the purposes of paragraph 4 above an interest is a relevant interest in an offshore fund if—
- (a) it is a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act 1988; or
 - (b) it would be such an interest if the assumption mentioned in sub-paragraph (2) below were made.
- (2) That assumption is that the unit trust schemes and arrangements referred to in [F23 paragraphs (b) and (c) of subsection (1) of section 756A] of the Taxes Act 1988 are not limited to those which are also collective investment schemes.

Textual Amendments

F23 Words in Sch. 10 para. 7 substituted (with effect in accordance with s. 145(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 26 para. 12\(2\)](#) (with [Sch. 26 para. 17](#))

Modifications etc. (not altering text)

C4 Sch. 10 para. 7 applied (29.4.1996) by [1992 c. 12](#), [s. 117B\(8\)](#) (as inserted (29.4.1996) by [1996 c. 8](#), [s. 104](#), [Sch. 14 para. 62](#) (with savings in [Pt. IV Ch. II](#)))

Non-qualifying investments test

- 8 (1) For the purposes of paragraph 4 above a unit trust scheme or offshore fund fails to satisfy the non-qualifying investments test at any time when the market value of the qualifying investments exceeds 60 per cent. of the market value of all the investments of the scheme or fund.

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- (2) Subject to sub-paragraph (8) below, in this paragraph “qualifying investments”, in relation to a unit trust scheme or offshore fund, means investments of the scheme or fund which are of any of the following descriptions—
- (a) money placed at interest;
 - (b) securities;
 - (c) shares in a building society;
 - (d) qualifying holdings in a unit trust scheme or an offshore fund [^{F24}or an open-ended investment company].
 - [^{F25}(e) derivative contracts whose underlying subject matter consists wholly of any one or more of the following—
 - (i) the matters referred to in paragraphs (a) to (d) above, and
 - (ii) currency;
 - (f) contracts for differences whose underlying subject matter consists wholly of any one or more of the following—
 - (i) interest rates,
 - (ii) creditworthiness, and
 - (ii) currency;
 - (g) derivative contracts not within paragraph (e) or (f) where there is a hedging relationship between the derivative contract and an asset within paragraphs (a) to (d) above;
 - (h) alternative finance arrangements.]
- (3) For the purposes of sub-paragraph (2) above a holding in a unit trust scheme or offshore fund [^{F26}or open-ended investment company] is a qualifying holding at any time if—
- (a) at that time, or
 - (b) at any other time in the same accounting period,
- that scheme or fund [^{F27}or company] would itself fail (even on the relevant assumption) to satisfy the non-qualifying investments test.
- [^{F28}(3A) For the purposes of sub-paragraph (3) above an open-ended investment company fails to satisfy the non-qualifying investments test at any time when the market value of the investments of the company which are qualifying investments exceeds 60 per cent. of the market value of all its investments.]
- (4) For the purposes of [^{F29}sub-paragraphs (3) and (3A)] above the relevant assumption is that investments of the scheme or fund [^{F30}or company] are qualifying investments in relation to that scheme or fund [^{F30}or company] only if they fall within [^{F31}paragraphs (a) to (c) and (e) to (h) of sub-paragraph (2) above].
- (5) References in this paragraph to investments of a unit trust scheme or offshore fund are references, as the case may be—
- (a) to investments subject to the trusts of the scheme, or
 - (b) to assets of the fund,
- but in neither case do they include references to cash awaiting investment.
- [^{F32}(5A) References in this paragraph to investments of an open-ended investment company are references to investments comprised in the scheme property of that company, but do not include references to cash awaiting investment.]

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- (6) References in this paragraph to a holding—
- (a) in relation to a unit trust scheme, are references to an entitlement to a share in the investments of the scheme; and
 - (b) in relation to an offshore fund, are references to shares in any company by which that fund is constituted or any entitlement to a share in the investments of the fund.
- ^{F33}and
- ^{F33}(c) in relation to an open-ended investment company, are references to shares in that company.]
- ^{F34}(6A) For the purposes of sub-paragraph (6)(c) above, where in respect of a given class of shares of an open-ended investment company—
- (a) shares issued of that class consist of both smaller denomination shares and larger denomination shares, and
 - (b) a person owns both smaller denomination shares and larger denomination shares of that class,
- those shares owned by him shall be treated as being securities of the same class for the purposes of the provisions of the Tax Acts and the 1992 Act relating to ownership of shares in a company.
- ^{F34}(6B) In sub-paragraph (6A) above, “smaller denomination shares” means shares to which are attached rights specified in the open-ended investment company’s instrument of incorporation that are expressed in the smaller of two denominations, and “larger denomination shares” means shares to which are attached rights so specified that are expressed in the larger of two denominations.]
- (7) In this paragraph “security” does not include shares in a company.
- ^{F35}(7A) In this paragraph—
- (a) “collective investment scheme” has the meaning given by ^{F36}235 of the Financial Services and Markets Act 2000];
 - (b) “open-ended investment company” means, subject to sub-paragraph (7B) below, an open-ended investment company within the meaning given by ^{F36}236 of the Financial Services and Markets Act 2000] which is incorporated in the United Kingdom;
 - (c) “scheme property” of an open-ended investment company means, subject to sub-paragraph (7C)(b) below, the property subject to the collective investment scheme constituted by the company;
 - (d) references to a person owning shares in an open-ended investment company are references to—
 - (i) the beneficial owner of the shares,
 - (ii) where the shares are held on trust (other than a bare trust), the trustees of the trust, or
 - (iii) where the shares are comprised in the estate of a deceased person, the deceased’s personal representatives.
- ^{F35}(7B) Each of the parts of an umbrella company shall be regarded for the purposes of this paragraph as an open-ended investment company and the umbrella company as a whole shall not be so regarded and shall not be regarded as a company.
- ^{F35}(7C) In relation to a part of an umbrella company—

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- (a) references in this paragraph to investments of an open-ended investment company shall have effect as references to such of the investments as under the arrangements referred to in sub-paragraph (7D) below form part of the separate pool to which that part of the umbrella company relates;
- (b) references in this paragraph to the scheme property of an open-ended investment company shall have effect as if they were references to such property subject to the collective investment scheme constituted by the umbrella company as is comprised in the separate pool to which that part of the umbrella company relates;
- (c) a person for the time being having rights in that part shall be regarded as the owner of shares in the open-ended investment company which that part is deemed to be by virtue of sub-paragraph (7B) above, and not as the owner of shares in the umbrella company itself.

^{F35}(7D) In sub-paragraphs (7B) and (7C) above “umbrella company” means a company—

- (a) which falls within the definition of “open-ended investment company” in [^{F36}236 of the Financial Services and Markets Act 2000],
- (b) which is incorporated in the United Kingdom,
- (c) whose instrument of incorporation provides for arrangements for such pooling as is mentioned in section [^{F37}235(3)(a)] of that Act in relation to separate parts of the scheme property of the company, and
- (d) the owners of shares in which are entitled to exchange rights in one part for rights in another;

and any reference to a part of an umbrella company is a reference to such of the arrangements as relate to a separate pool.]

[^{F38}(7E) For the purposes of this paragraph—

“contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;

“derivative contract” means—

- (a) a contract which is a derivative contract within the meaning of that Schedule, or
- (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);

“underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.]

[^{F39}(7F) In this paragraph “offshore fund” has the same meaning as in Chapter 5 of Part 17 of the Taxes Act 1988 and references to the assets of an offshore fund shall be construed in accordance with that Chapter.]

[^{F40}(7G) For the purposes of this paragraph, in relation to a unit trust scheme, offshore fund or open-ended investment company, there is a hedging relationship between a derivative contract on the one hand (“the hedging instrument”) and an asset on the other (“the hedged item”) if and to the extent that—

- (a) the hedging instrument and the hedged item are designated by the scheme, fund or company as a hedge, or
- (b) in any other case the hedging instrument is intended to act as a hedge of the exposure to changes in fair value of a hedged item which is a recognised asset

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or an identified portion of such an asset that is attributable to a particular risk and could affect the total net return of the scheme, fund or company.

- (7H) For the purposes of sub-paragraph (7G)(b) above, the “total net return” of a scheme, fund or company means the total net return of the scheme, fund or company, computed—
- (a) in accordance with generally accepted accounting practice, or
 - (b) in the case of accounts prepared in a jurisdiction outside the United Kingdom, in accordance with generally accepted accounting practice in that jurisdiction.
- (7I) In this paragraph “alternative finance arrangements” has the meaning given by section 46(1) of the Finance Act 2005.]
- (8) The Treasury may by order amend this paragraph so as to extend or restrict the descriptions of investments of a unit trust scheme or offshore fund that are qualifying investments for the purposes of this paragraph.

Textual Amendments

- F24** Words in Sch. 10 para. 8(2)(d) added (25.2.1997) by [S.I. 1997/213, art. 2](#)
- F25** Sch. 10 para. 8(2)(e)-(h) substituted for Sch. 10 para. 8(2)(e) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Unit Trust Schemes and Offshore Funds \(Non-qualifying Investments Test\) Order 2006 \(S.I. 2006/981\), arts. 1\(1\), 3](#)
- F26** Words in Sch. 10 para. 8(3) inserted (25.2.1997) by [S.I. 1997/213, art. 4\(a\)](#)
- F27** Words in Sch. 10 para. 8(3) inserted (25.2.1997) by [S.I. 1997/213, art. 4\(b\)](#)
- F28** Sch. 10 para. 8(3A) inserted (25.2.1997) by [S.I. 1997/213, art. 5](#)
- F29** Words in Sch. 10 para. 8(4) substituted (25.2.1997) by [S.I. 1997/213, art. 6\(a\)](#)
- F30** Words in Sch. 10 para. 8(4) inserted (25.2.1997) by [S.I. 1997/213, art. 6\(b\)](#)
- F31** Words in Sch. 10 para. 8(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Unit Trust Schemes and Offshore Funds \(Non-qualifying Investments Test\) Order 2006 \(S.I. 2006/981\), arts. 1\(1\), 4](#)
- F32** Sch. 10 para. 8(5A) inserted (25.2.1997) by [S.I. 1997/213, art. 7](#)
- F33** Sch. 10 para. 8(6)(c) and the preceding word “and” added (25.2.1997) by [S.I. 1997/213, art. 8](#)
- F34** Sch. 10 para. 8(6A)(6B) inserted (25.2.1997) by [S.I. 1997/213, art. 9](#)
- F35** Sch. 10 para. 8(7A)-(7D) inserted (25.2.1997) by [S.I. 1997/213, art. 10](#)
- F36** Words in Sch. 10 para. 8(7A)(a)(b)(7D)(a) substituted (1.12.2001) by [S.I. 2001/3629, art. 95\(2\)\(a\)\(b\)\(3\)\(a\)](#)
- F37** Words in Sch. 10 para. 8(7D)(c) substituted (1.12.2001) by [S.I. 2001/3629, art. 95\(3\)\(b\)](#)
- F38** Sch. 10 para. 8(7E) inserted (with effect in relation to accounting periods beginning on or after 1.10.2002 subject to [Sch. 28](#) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 83, Sch. 27 para. 20\(4\)](#)
- F39** Sch. 10 para. 8(7F) inserted (with effect in accordance with s. 145(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 26 para. 12\(3\)](#) (with [Sch. 26 para. 17](#))
- F40** Sch. 10 para. 8(7G)-(7I) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Unit Trust Schemes and Offshore Funds \(Non-qualifying Investments Test\) Order 2006 \(S.I. 2006/981\), arts. 1\(1\), 5](#)

Modifications etc. (not altering text)

- C5** Sch. 10 para. 8(2)(a) modified (7.4.2005) by [Finance Act 2005 \(c. 7\), Sch. 2 para. 9](#)

Powers to make orders

- 9 (1) An order made by the Treasury under any provision of this Schedule may—

Status: Point in time view as at 14/08/2007.

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 10. (See end of Document for details)*

- (a) make different provision for different cases; and
 - (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.
- (2) Without prejudice to the generality of sub-paragraph (1) above, an order under paragraph 8(8) above may make such incidental modifications of paragraph 8(4) above as the Treasury may think fit.

Status:

Point in time view as at 14/08/2007.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 10.