
STATUTORY INSTRUMENTS

2004 No. 2738

**The Financial Services and Markets Act 2000
(Stakeholder Products) Regulations 2004**

Permitted reductions in investor's rights and investment property

9.—(1) The value of an investor's rights in an investment scheme may be reduced in the circumstances, and to the extent, set out in paragraphs (3) to (5).

(2) The value of the investment property may be reduced in the circumstances, and to the extent, set out in paragraph (9).

(3) To the extent that an investor's rights in an investment scheme are represented by a fund allocated to him to the exclusion of other investors, the value of those rights may be reduced by the making of deductions from that fund no greater than, at the choice of the manager—

- (a) the relevant percentage of its value for each day on which it is held; or
- (b) the proportion attributable to the investor's fund of the relevant percentage of the value of the investment property for each day on which the investor's fund is held for the purposes of the scheme.

(4) To the extent that an investor's rights in an investment scheme are represented by a share of funds held for the purposes of the scheme, the amount of that share not being determined by reference to a discretion exercisable by any person, the value of those rights may be reduced by the making of deductions from that share no greater than, at the choice of the manager—

- (a) the relevant percentage of its value for each day on which it is held; or
- (b) the proportion attributable to the investor's share of the relevant percentage of the value of the investment property for each day on which the investor's share is held for the purposes of the scheme.

(5) To the extent that an investor's rights are represented by rights under a linked long-term contract to which regulations 6(1)(b) and 8 apply, the value of those rights may be reduced by the making of deductions from those rights no greater than, at the choice of the manager—

- (a) the relevant percentage of the value of the investor's rights under the contract; or
- (b) the proportion attributable to the investor's rights of the relevant percentage of the value of the underlying fund for each day on which the investor has rights under the contract.

(6) When calculating the value of the rights of an investor for the purposes of paragraphs (3) to (5) above, where the manager has specified under paragraph (7) that such rights are to be valued weekly or monthly—

- (a) where such rights are to be valued weekly, they are to be valued on such day of the week ("the specified day") as has been so specified by the manager (except that, where that day is not a working day, the rights are to be valued on the next working day), and the value of the rights on each subsequent day prior to the next specified day is to be taken to be the value of the rights on the previous specified day; and
- (b) where the rights are to be valued monthly, they are to be valued on such date in each month ("the specified date") as has been so specified by the manager (except that, where that date is not a working day, the rights are to be valued on the next working day), and the value

of the rights on each subsequent day prior to the next specified date is to be taken to be the value of the rights on the previous specified date.

(7) For the purposes of paragraph (3) to (5)—

- (a) the frequency, which must be daily, weekly or monthly, with which rights are to be valued; and
- (b) where valuation is to take place weekly or monthly, the day of the week or, as the case may be, the date in the month on which it is to take place,

must be specified in writing by the manager; and the specification may not be amended during the period of 12 months after the date on which it is made.

(8) For the purposes of paragraphs (3) to (5), “the relevant percentage” means—

- (a) during the period of 10 years beginning with the day on which the first contribution is made by the investor to the investment scheme or linked long-term contract (as the case may be), $\frac{3}{730}$ per cent.;
- (b) otherwise $\frac{1}{365}$ per cent.

(9) The value of the investment property may be reduced—

- (a) where any stamp duty, stamp duty reserve tax, value added tax or other charge (including any dilution levy) are incurred by the manager directly or indirectly in or consequent upon the sale or purchase of investments held for the purposes of the investment scheme, by the amount of those charges;
- (b) where any amount of tax is paid or anticipated to be payable in respect of income received or capital gains realised by the manager in respect of investments held for the purposes of the investment scheme, by the amount so deducted or anticipated;
- (c) where any charges or expenses are incurred by the manager directly or indirectly in maintaining or repairing any land or building in which the investment property is invested or in connection with the collection of rent, service charge or other sum due under the terms of a lease from occupiers of any land or building in which the investment property is invested, by the amount of those charges or expenses;
- (d) where any charges or expenses are incurred by the manager directly or indirectly in complying with an order of the court or any similar requirements imposed by law, by the amount of those charges or expenses;
- (e) to the extent that the manager incurs any expenses in complying with a requirement—
 - (i) to arrange for the investor to receive a copy of the annual report and accounts issued to investors by any company, unit trust, open-ended investment company or other entity in which the investment scheme is invested directly or indirectly (“the relevant entities”), or
 - (ii) to arrange for the investor to attend, vote or receive any other information issued to investors by the relevant entities,

by the amount of such of those expenses; and

- (f) in respect of a linked long-term contract referred to in regulation 6 which is subject to smoothing, by the amount of the charges or expenses incurred by the manager in providing funds to smooth investment returns but only when the provision of such funds is in accordance with the manager’s stated policy on smoothing.

(10) Where the value of the investment property is reduced by reference to an amount of charges or expenses referred to in paragraph (9), then, for the purposes of calculating any reduction in the investor’s rights under paragraphs (3), (4) or (5), the value of those rights is to be calculated after the deductions of any such amount.

(11) Where an investment scheme is brought to an end by a manager and the investor takes up a transfer facility to another investment scheme, the relevant percentage for the purposes of paragraphs (3) to (5) shall be the same as that which would have been applied under or in respect of the original investment scheme as if the original investment scheme were continuing, notwithstanding any rules of the new investment scheme.