

EXPLANATORY MEMORANDUM TO
THE AUTHORISED INVESTMENT FUNDS (TAX) (AMENDMENT NO. 2)
REGULATIONS 2011

2011 No. 2192

1. This explanatory memorandum has been prepared by HM Revenue and Customs, on behalf of HM Treasury, and is laid before House of Commons by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 To permit Authorised Investment Funds (AIFs) that have, as investors, other mutual funds, to take into account the investors in those funds in establishing compliance with the genuine diversity of ownership condition where this is relevant to the AIF.

2.2 To prevent AIFs that have an investment strategy which requires tracking a market equity index from incurring a charge to tax on an offshore income gain in respect of the disposal of an interest in a non-reporting fund where this has been held as part of the index tracking strategy.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 This instrument amends the existing tax regulations applying to AIFs.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- *What is being done and why*

7.1 The change to the genuine diversity of ownership condition will enable an AIF which pools the investments of other funds (a 'Master Fund') to satisfy the condition. A similar change has already been made for offshore reporting funds by Statutory Instrument 2011 No.1211.

7.2 The rule for index tracking funds will reduce compliance burdens on funds tracking a certain market indices by removing the need to check the status of some of the holdings of such funds. A similar change has already been made for offshore reporting funds by Statutory Instrument 2011 No.1211.

7.3 Both these changes to AIF regulations help to match the tax treatment of taxpayers with investments in UK funds and in offshore reporting funds.

- ***Consolidation***

7.4 This instrument amends the Authorised Investment Funds (Tax) Regulations 2006. There are no plans to consolidate the revised Regulations in the immediate future.

8. Consultation outcome

These minor technical changes to AIF regulations have been informally consulted upon with the industry representative body. In view of the minor, specialist and permissive nature of the changes this is considered to be a proportionate approach to consultation.

9. Guidance

Guidance will shortly be published by HM Revenue and Customs in draft form for comment and will, once finalised, be incorporated into the existing guidance applying to the Authorised Investment Funds (Tax) Regulations 2006.

10. Impact

10.1 There is negligible impact on business, charities or voluntary bodies.

10.2 There is negligible impact on the public sector.

10.3 A Tax Impact and Information Note can be found at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation applies to small business. The number of employees (the definition of a “small business” for this purpose) is not usually relevant to the size or organisational structure of an AIF. In cases where this legislation is relevant its impact on regulatory burdens is wholly relieving.

11.2 The impact on small business will be minimised as both the changes made are entirely enabling and no action is required if the AIF manager does not wish to take advantage of the provisions.

11.3 To enable the provisions to be accessed by all potential users HMRC will provide guidance in consultation with industry representative bodies.

12. Monitoring & review

The Government keeps the AIF regulations under review and intends to continue to work with industry to develop these Regulations.

13. Contact

John Buckeridge at HM Revenue and Customs Tel: 020 7147 2560 or email: john.buckeridge@hmrc.gsi.gov.uk can answer any queries regarding the instrument.