
50 SDLT: property authorised investment funds and co-ownership authorised contractual schemes

The Schedule contains provision about—

- (a) the stamp duty land tax treatment of co-ownership authorised contractual schemes, and
- (b) relief from stamp duty land tax for certain acquisitions by such schemes and by property authorised investment funds.

SCHEDULE TO CLAUSE 50

PROPERTY AUTHORISED INVESTMENT FUNDS AND CO-OWNERSHIP AUTHORISED - CONTRACTUAL SCHEMES -

PART 1

CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

1 In FA 2003, after section 102 insert –

“102A Co-ownership authorised contractual schemes

- (1) - This section has effect for the purposes of this Part.
- (2) - This Part, with the exception of Schedule 7 (see subsection (10)), applies in relation to a co-ownership authorised contractual scheme as if –
 - (a) - the scheme were a company, and
 - (b) - the rights of the persons entitled to a share of the investments subject to the scheme were shares in the company.
- (3) - An “umbrella COACS” means a co-ownership authorised contractual scheme –
 - (a) - whose arrangements provide for separate pooling of the contributions of the participants and the profits or income out of which payments are made to them (“pooling arrangements”), and
 - (b) - under which the participants are entitled to exchange rights in one pool for rights in another.
- (4) - A “sub-scheme”, in relation to an umbrella COACS, means such of the pooling arrangements as relate to a separate pool.
- (5) - Each of the sub-schemes of an umbrella COACS is regarded as a separate co-ownership authorised contractual scheme, and the umbrella COACS as a whole is not so regarded.
- (6) - In relation to a sub-scheme of an umbrella COACS –
 - (a) - references to chargeable interests are references to such of the chargeable interests as under the pooling arrangements form part of the separate pool to which the sub-scheme relates, and
 - (b) - references to documents of the scheme are references to such parts of the documents as apply to the sub-scheme.
- (7) - References to a co-ownership authorised contractual scheme are taken to include a collective investment scheme which –
 - (a) - is constituted under the law of an EEA State other than the United Kingdom by a contract,

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- (b) is managed by a body corporate incorporated under the law of an EEA State, and
- (c) is authorised under the law of the EEA State mentioned in paragraph (a) in a way which makes it, under that law, the equivalent of a co-ownership authorised contractual scheme as defined in subsection (8),

provided that, apart from this section, no charge to tax is capable of arising to the scheme under this Part.

- (8) - Subject to any regulations under subsection (9) –

“co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

“co-ownership scheme” has the same meaning as in the Financial Services and Markets Act 2000 (see section 235A of that Act).

- (9) - The Treasury may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a co-ownership authorised contractual scheme for the purposes of this Part.

Any such regulations may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

- (10) - A co-ownership authorised contractual scheme is not to be treated as a company for the purposes of Schedule 7 (group relief, reconstruction relief or acquisition relief).

- (11) - In relation to a chargeable transaction in respect of which a co-ownership authorised contractual scheme is treated as the purchaser by virtue of this section –

(a) - in sections 76, 80, 81, 81A and 108(2) and Schedule 10 (provisions about land transaction returns and further returns, enquiries, assessments and related matters), references to the purchaser or the taxpayer are to be read as references to the operator of the scheme, and

(b) - in sections 85 (liability for tax) and 90 (application to defer payment in case of contingent or unascertained consideration) and Schedule 11A (claims not included in returns), references to the purchaser are to be read as references to the operator of the scheme.”

PART 2

SEEDING RELIEF FOR PROPERTY AUTHORISED INVESTMENT FUNDS AND CO-OWNERSHIP - AUTHORISED CONTRACTUAL SCHEMES -

2 FA 2003 is amended in accordance with this Part.

3 After section 65 insert –

“65A PAIF seeding relief and COACS seeding relief

- (1) Schedule 7A provides for relief from stamp duty land tax.

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- (2) In that Schedule— -
- (a) - Part 1 makes provision for seeding relief for property authorised investment funds (PAIF seeding relief), and
 - (b) - Part 2 makes provision for seeding relief for co-ownership authorised contractual schemes (COACS seeding relief).
- (3) - Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return, and must be accompanied by a notice to HMRC referring to the claim.
- (4) - In the case of a claim for PAIF seeding relief, the notice must confirm that the purchaser is—
- (a) - a property AIF as defined in paragraph 2(2) of Schedule 7A, or
 - (b) - a company treated as a property AIF by virtue of paragraph 2(7) of Schedule 7A (equivalent EEA funds).
- (5) - In the case of a claim for COACS seeding relief, the notice must confirm that the purchaser is—
- (a) - a co-ownership authorised contractual scheme as defined in section 102A(8), or
 - (b) - an entity treated as a co-ownership authorised contractual scheme by virtue of section 102A(7) (equivalent EEA schemes).
- (6) - The notice must be in such form, and contain such further information, as HMRC may require.”

4 After Schedule 7 insert—

“SCHEDULE 7A -

Section 65A

SEEDING RELIEF

PART 1

PROPERTY AUTHORISED INVESTMENT FUNDS

PAIF seeding relief

- 1 (1) -A land transaction is exempt from charge if conditions A to D are met.
Relief under this paragraph is called PAIF seeding relief.
- (2) -Condition A is that the purchaser is a property AIF (see paragraph 2).
- (3) -Condition B is that the main subject-matter of the transaction is one or more major interests in land.
- (4) -Condition C is that the only consideration for the transaction is the issue of units in the property AIF to a person who is the vendor.
- (5) -Condition D is that the effective date of the transaction is a day within the seeding period (see paragraph 3).
- (6) -This paragraph is subject to paragraph 4 (restrictions on availability of relief) and paragraphs 5 to 8 (withdrawal of relief).

Meaning of “property AIF”

- 2 (1) This paragraph has effect for the purposes of this Schedule.
- (2) -A “property AIF” is an open-ended investment company to which Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964) applies.
- (3) -An “umbrella fund” means a property AIF –
 - (a) - whose instrument of incorporation provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are made to them (“pooling arrangements”), and
 - (b) - under which the participants are entitled to exchange rights in one pool for rights in another.
- (4) -A “sub-fund”, in relation to an umbrella fund, means such of the pooling arrangements as relate to a separate pool.
- (5) -Each of the sub-funds of an umbrella fund is regarded as a separate property AIF, and the umbrella fund as a whole is not so regarded.
- (6) -In relation to a sub-fund of an umbrella fund, references to chargeable interests are references to such of the chargeable interests as under the pooling arrangements form part of the separate pool to which the sub-fund relates.
- (7) -References to a property AIF are taken to include a collective investment scheme which –
 - (a) - is a company incorporated under the law of an EEA State other than the United Kingdom, and
 - (b) - is authorised under the law of that EEA State in a way which makes it, under that law, the equivalent of a property AIF as defined in sub-paragraph (2).

Meaning of “seeding period”

- 3 - (1) In this Part of this Schedule, the “seeding period” means –
 - (a) - the period beginning with the first property seeding date and ending with the date of the first external investment into the property AIF, or
 - (b) - if shorter, the period of 18 months beginning with the first property seeding date.
- (2) -In sub-paragraph (1), “the first property seeding date” means the earliest effective date of a transaction in respect of which conditions A to C in paragraph 1 are met.
- (3) -In sub-paragraph (1) –

“external investment” means a non-land transaction in which the vendor is an external investor;

“external investor” means a person other than a person who has been a vendor in a transaction –

 - (a) - the effective date of which is on or before the date of the non-land transaction, and

(b) in respect of which conditions A to C in paragraph 1 - are met;

“non-land transaction” means a transaction by which the property AIF acquires assets which do not consist of or include a chargeable interest.

Restrictions on availability of relief

- 4 (1) -This paragraph restricts the availability of PAIF seeding relief for a transaction in respect of which conditions A to D in paragraph 1 are met.
- (2) -PAIF seeding relief is not available unless, at the effective date of the transaction, the property AIF has arrangements in place requiring a person who is the vendor to notify the property AIF of the following matters –
- (a) - the beneficial owner of the units in the property AIF received in consideration of the transaction, and
 - (b) - any disposal of units in the property AIF by the beneficial owner to a person other than the property AIF, in the period beginning with the effective date of the transaction and ending with the last day of the control period.
- (3) -PAIF seeding relief is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person who is the vendor makes or could make a disposal of units in the property AIF which is or could be a relevant disposal (see paragraph 7).
- (4) -PAIF seeding relief is not available if the transaction –
- (a) - is not effected for bona fide commercial reasons, or
 - (b) - forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.
- “Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

Withdrawal of relief: ceasing to be property AIF

- 5 (1) -Where PAIF seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the purchaser ceases to be a property AIF –
- (a) - at any time after the effective date of that transaction but within the seeding period,
 - (b) - at any time in the control period, or
 - (c) - in pursuance of, or in connection with, arrangements made before the end of the control period,
- then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
- (2) -Relief is only withdrawn if, at the time when the purchaser ceases to be a property AIF, the purchaser holds a chargeable interest –
- (a) - that was acquired by the purchaser under the relevant transaction, or

-
- (b) that is derived from an interest so acquired. -
- (3) -The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) -In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the purchaser at the time it ceases to be a property AIF.

Withdrawal of relief: portfolio test not met

- 6 (1) Where PAIF seeding relief has been allowed in respect of a transaction, and the portfolio test is not met immediately before the end of the seeding period, the relief is withdrawn and tax is chargeable in accordance with sub-paragraph (2).
- (2) The amount chargeable is the amount that would have been chargeable in respect of the transaction but for PAIF seeding relief.
- (3) Where PAIF seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the portfolio test is met immediately before the end of the seeding period, but is not met—
- (a) at a time in the control period, or
- (b) at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,
- then, subject to sub-paragraph (4), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with sub-paragraph (5).
- A time at which the relief is withdrawn and tax is so chargeable is referred to in this paragraph as “the relevant time”.
- (4) Relief is only withdrawn under sub-paragraph (3) if, at the relevant time, the property AIF holds a chargeable interest—
- (a) that was acquired by the property AIF under the relevant transaction, or
- (b) that is derived from an interest so acquired.
- (5) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (6) -In sub-paragraphs (3) and (5) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the property AIF at the relevant time.
- (7) -The portfolio test is a requirement that the property AIF meets—
- (a) the non-residential portfolio test (see sub-paragraph (8)), or
- (b) the residential portfolio test (see sub-paragraph (9)).

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- (8) The “non-residential portfolio test” is met at any time if – -
- (a) the property AIF holds at least 10 seeded interests at that time,
 - (b) - so much of the total chargeable consideration as is attributable to all the seeded interests held by the property AIF at that time (“the seeded portfolio”) is at least £100 million, and
 - (c) - so much of the total chargeable consideration as is attributable to so many of those seeded interests as are interests in or over residential property (if any) does not exceed 10% of the seeded portfolio.
- (9) -The “residential portfolio test” is met at any time if –
- (a) - so much of the total chargeable consideration as is attributable to all the seeded interests held by the property AIF at that time is at least £100 million, and
 - (b) - at least 100 of the seeded interests held by the property AIF at that time are interests in or over residential property.
- (10) -In sub-paragraphs (8) and (9) –
- “seeded interest” means a chargeable interest acquired by the property AIF in a transaction for which PAIF seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent) (a “seeding transaction”), and
 - “total -chargeable consideration” means the total of the chargeable consideration for all seeding transactions.
- (11) -For the purposes of this paragraph, section 116(7) does not apply (modification of what counts as residential property).

Withdrawal of relief: units disposed of

- 7 (1) -Where PAIF seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and a person who was the vendor in that transaction (“V”) makes a relevant disposal of one or more units in the property AIF –
- (a) - at any time after the effective date of that transaction but within the seeding period,
 - (b) - at any time in the control period, or
 - (c) - in pursuance of, or in connection with, arrangements made before the end of the control period,
- the relief is withdrawn to the extent set out in this paragraph, and tax is chargeable in accordance with this paragraph.
- (2) -A disposal is a “relevant disposal” for the purposes of this paragraph if, in relation to the disposal, SU exceeds TU.
- (3) -In this paragraph, in relation to a disposal of units in the property AIF – -
- “SU” means – -
 - (a) - where the total number of units in the property AIF held by V immediately before the disposal is equal to or greater than the number of seeded units received by V up to that time, the number of seeded units received by V up to that time, or

(b) - where the total number of units in the property AIF held by V immediately before the disposal is less than the number of seeded units received by V up to that time, the number of units in the property AIF held by V immediately before the disposal;

“TU” means the total number of units in the property AIF held by V immediately after the disposal.

(4) -The amount chargeable is –

$$\frac{U}{SNU} \times SDLT$$

where –

“U” means the difference between SU and TU;

“SNU” means the number of seeded units received by V up to the time of the disposal;

“SDLT” means the amount of tax that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief, ignoring any amount of tax that has been charged under this paragraph in respect of the relevant transaction in relation to an earlier disposal of units by V.

(5) -In this paragraph, “the number of seeded units received by V” up to a certain time means the number of units in the property AIF received by V before that time in consideration of a transaction for which PAIF seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent).

Withdrawal of relief: dwelling occupied by non-qualifying individual

8 (1) -This paragraph applies to a transaction (“the relevant transaction”) if –

(a) - PAIF seeding relief has been allowed in respect of the transaction,

(b) - the main subject-matter of the transaction consists of or includes a chargeable interest in or over a dwelling, and

(c) - a non-qualifying individual (see paragraph 9) is permitted to occupy such a dwelling at any time.

The dwelling which a non-qualifying individual is permitted to occupy is referred to as “the disqualifying dwelling”.

(2) -The relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.

This is subject to sub-paragraphs (3) and (4).

(3) -Relief is only withdrawn if, at the time a non-qualifying individual is permitted to occupy the disqualifying dwelling, the property AIF holds –

(a) - a chargeable interest in or over that dwelling (“the relevant chargeable interest”), or

(b) - a chargeable interest that is derived from the relevant chargeable interest.

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- (4) -Where a non-qualifying individual is first permitted to occupy the disqualifying dwelling at a time after the end of the control period, relief is only withdrawn if, at that time, the purchaser in the relevant transaction fails to meet the genuine diversity of ownership condition set out in regulation 9A of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964).
For the purposes of this sub-paragraph, regulation 9A(2)(a) of those Regulations is to be read as if the words “throughout the accounting period” were omitted.
- (5) -The amount chargeable is –
- (a) - the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief if the chargeable consideration for that transaction had been so much of the chargeable consideration as is attributable to the relevant chargeable interest, or
 - (b) - (as the case may be) an appropriate proportion of the amount that would have been so chargeable.
- (6) -In sub-paragraphs (2) and (5), an “appropriate proportion” means an appropriate proportion having regard to the extent to which the relevant chargeable interest is an interest in or over property other than the disqualifying dwelling.
- 9 (1) -In paragraph 8 “non-qualifying individual”, in relation to a land transaction and a property AIF, means any of the following –
- (a) - an individual who is a major participant in the property AIF;
 - (b) - an individual who is connected with a major participant in the property AIF;
 - (c) - an individual who is connected with the property AIF;
 - (d) - a relevant settlor;
 - (e) - the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
 - (f) - a relative of an individual falling within paragraph (b), (c) or (d), or the spouse or civil partner of a relative of an individual falling within paragraph (b), (c) or (d);
 - (g) - a relative of the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
 - (h) - the spouse or civil partner of an individual falling within paragraph (g).
- (2) -An individual who participates in the property AIF is a “major participant” in it if the individual –
- (a) - is entitled to a share of at least 50% either of all the profits or income arising from the property AIF or of any profits or income arising from it that may be distributed to participants, or
 - (b) - would in the event of the winding up of the property AIF be entitled to 50% or more of the assets of the property AIF that would then be available for distribution among the participants.
- (3) -The reference in sub-paragraph (2)(a) to profits or income arising from the property AIF is to profits or income arising from the

acquisition, holding, management or disposal of the property - subject to the property AIF.

- (4) -In this paragraph—
- “relative” means brother, sister, ancestor or lineal descendant;
 - “relevant settlor”, in relation to a land transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (5));
 - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (5) -Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a land transaction, that settlement is a “relevant settlement” in relation to the transaction.
- (6) -In sub-paragraph (5) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected” persons: supplementary).
- (7) -Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes, subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded.

PART 2

CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

COACS seeding relief

- 10 (1) -A land transaction is exempt from charge if conditions A to D are met.
Relief under this paragraph is called COACS seeding relief.
- (2) -Condition A is that the purchaser is a co-ownership authorised contractual scheme (see section 102A).
- (3) -Condition B is that the main subject-matter of the transaction is one or more major interests in land.
- (4) -Condition C is that the only consideration for the transaction is the issue of units in the co-ownership authorised contractual scheme to a person who is the vendor.
- (5) -Condition D is that the effective date of the transaction is a day within the seeding period (see paragraph 11).
- (6) -This paragraph is subject to paragraph 12 (restrictions on availability of relief) and paragraphs 13, 14, 16, 17 and 18 (withdrawal of relief).

Meaning of “seeding period”

- 11 (1) -In this Part of this Schedule, the “seeding period” means—

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- (a) - the period beginning with the first property seeding date and ending with the date of the first external investment into the co-ownership authorised contractual scheme, or
 - (b) - if shorter, the period of 18 months beginning with the first property seeding date.
- (2) -In sub-paragraph (1), “the first property seeding date” means the earliest effective date of a transaction in respect of which conditions A to C in paragraph 10 are met.
- (3) -In sub-paragraph (1) –
- “external investment” means a non-land transaction in which the vendor is an external investor;
 - “external investor” means a person other than a person who has been a vendor in a transaction –
 - (a) - the effective date of which is on or before the date of the non-land transaction, and
 - (b) - in respect of which conditions A to C in paragraph 10 are met;
 - “non-land -transaction” means a transaction by which the scheme acquires assets which do not consist of or include a chargeable interest.

Restrictions on availability of relief

- 12 (1) -This paragraph restricts the availability of COACS seeding relief for a transaction in respect of which conditions A to D in paragraph 10 are met.
- (2) -COACS seeding relief is not available unless, at the effective date of the transaction, the arrangements constituting the co-ownership authorised contractual scheme require a person who is the vendor to notify the operator of the scheme of the following matters –
- (a) - the beneficial owner of the units in the scheme received in consideration of the transaction, and
 - (b) - any disposal of units in the scheme by the beneficial owner to a person other than the scheme in the period beginning with the effective date of the transaction and ending with the last day of the control period.
- (3) -COACS seeding relief is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person who is the vendor makes or could make a disposal of units in the co-ownership authorised contractual scheme which is or could be a relevant disposal (see paragraph 17).
- (4) -COACS seeding relief is not available if the transaction –
- (a) - is not effected for bona fide commercial reasons, or
 - (b) - forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.
- “Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

Withdrawal of relief: ceasing to be co-ownership authorised contractual scheme

- 13 (1) -Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the purchaser ceases to be a co-ownership authorised contractual scheme –
- (a) - at any time after the effective date of that transaction but within the seeding period,
 - (b) - at any time in the control period, or
 - (c) - in pursuance of, or in connection with, arrangements made before the end of the control period,
- then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
- (2) -Relief is only withdrawn if, at the time when the purchaser ceases to be a co-ownership authorised contractual scheme, the purchaser holds a chargeable interest –
- (a) - that was acquired by the purchaser under the relevant transaction, or
 - (b) - that is derived from an interest so acquired.
- (3) -The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) -In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the purchaser at the time it ceases to be a co-ownership authorised contractual scheme.

Withdrawal of relief: genuine diversity of ownership condition not met

- 14 (1) -Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the genuine diversity of ownership condition (see paragraph 15) is not met –
- (a) - immediately before the end of the seeding period,
 - (b) - at a time in the control period, or
 - (c) - at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,
- then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
- A time at which the relief is withdrawn and tax is so chargeable is referred to in this paragraph as “the relevant time”.
- (2) -The relief is only withdrawn if, at the relevant time, the co-ownership authorised contractual scheme holds a chargeable interest –
- (a) - that was acquired by the scheme under the relevant transaction, or
 - (b) - that is derived from an interest so acquired.

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- (3) -The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
 - (4) -In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the scheme at the relevant time.

Genuine diversity of ownership condition

- 15 (1) -This paragraph has effect for the purposes of paragraphs 14 and 18(4).
- (2) -A co-ownership authorised contractual scheme meets the genuine diversity of ownership condition at any time when it meets conditions A to C.
- (3) -Condition A is that the scheme produces documents, available to investors and to HMRC, which contain—
 - (a) - a statement specifying the intended categories of investor,
 - (b) - an undertaking that units in the scheme will be widely available, and
 - (c) - an undertaking that units in the scheme will be marketed and made available in accordance with the requirements of sub-paragraph (6)(a).
- (4) -Condition B is that—
 - (a) - the specification of the intended categories of investor does not have a limiting or deterrent effect, and
 - (b) - any other terms or conditions governing participation in the scheme do not have a limiting or deterrent effect.
- (5) -In sub-paragraph (4) “limiting or deterrent effect” means an effect which—
 - (a) - limits investors to a limited number of specific persons or specific groups of connected persons, or
 - (b) - deters a reasonable investor falling within one of (what are specified as) the intended categories of investor from investing in the scheme.
- (6) -Condition C is that—
 - (a) - units in the scheme are marketed and made available—
 - (i) - sufficiently widely to reach the intended categories of investors, and
 - (ii) - in a manner appropriate to attract those categories of investors, and
 - (b) - a person who falls within one of the intended categories of investors can, upon request to the operator of the scheme, obtain information about the scheme and acquire units in it.
- (7) -A scheme is not regarded as failing to meet condition C at any time by reason of the scheme’s having, at that time, no capacity to receive additional investments, unless—

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- (a) the capacity of the scheme to receive investments in it is - fixed by the scheme documents (or otherwise), and
 - (b) - a pre-determined number of specific persons or specific groups of connected persons make investments in the scheme which collectively exhaust all, or substantially all, of that capacity.
- (8) -A co-ownership authorised contractual scheme also meets the genuine diversity of ownership condition at any time when –
- (a) - there is a feeder fund in relation to the scheme, and
 - (b) - conditions A to C are met in relation to the scheme after taking into account –
 - (i) - the scheme documents relating to the feeder fund, and
 - (ii) - the intended investors in the feeder fund.
- (9) -Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph.

Withdrawal of relief: portfolio test not met

- 16 (1) -Where COACS seeding relief has been allowed in respect of a transaction, and the portfolio test is not met immediately before the end of the seeding period, the relief is withdrawn and tax is chargeable in accordance with sub-paragraph (2).
- (2) -The amount chargeable is the amount that would have been chargeable in respect of the transaction but for COACS seeding relief.
- (3) -Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the portfolio test is met immediately before the end of the seeding period, but is not met –
- (a) - at a time in the control period, or
 - (b) - at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,
- then, subject to sub-paragraph (4), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with sub-paragraph (5).
- A time at which the relief is withdrawn and tax is so chargeable is referred to in this paragraph as “the relevant time”.
- (4) -Relief is only withdrawn under sub-paragraph (3) if, at the relevant time, the co-ownership authorised contractual scheme holds a chargeable interest –
- (a) - that was acquired by the scheme under the relevant transaction, or
 - (b) - that is derived from an interest so acquired.
- (5) -The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.

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- (6) -In sub-paragraphs (3) and (5) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the scheme at the relevant time.
- (7) -The portfolio test is a requirement that the scheme meets –
- (a) - the non-residential portfolio test (see sub-paragraph (8)), or
 - (b) - the residential portfolio test (see sub-paragraph (9)).
- (8) The “non-residential portfolio test” is met at any time if –
- (a) - the scheme holds at least 10 seeded interests at that time,
 - (b) - so much of the total chargeable consideration as is attributable to all the seeded interests held by the scheme at that time (“the seeded portfolio”) is at least £100 million, and
 - (c) - so much of the total chargeable consideration as is attributable to so many of those seeded interests as are interests in or over residential property (if any) does not exceed 10% of the seeded portfolio.
- (9) -The “residential portfolio test” is met at any time if –
- (a) - so much of the total chargeable consideration as is attributable to all the seeded interests held by the scheme at that time is at least £100 million, and
 - (b) - at least 100 of the seeded interests held by the scheme at that time are interests in or over residential property.
- (10) -In sub-paragraphs (8) and (9) –
- “seeded interest” means a chargeable interest acquired by the scheme in a transaction for which COACS seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent) (a “seeding transaction”), and
 - “total -chargeable consideration” means the total of the chargeable consideration for all seeding transactions.
- (11) -For the purposes of this paragraph, section 116(7) does not apply (modification of what counts as residential property).

Withdrawal of relief: units disposed of

- 17 (1) -Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and a person who was the vendor in that transaction (“V”) makes a relevant disposal of one or more units in the co-ownership authorised contractual scheme –
- (a) - at any time after the effective date of that transaction but within the seeding period,
 - (b) - at any time in the control period, or
 - (c) - in pursuance of, or in connection with, arrangements made before the end of the control period,
- the relief is withdrawn to the extent set out in this paragraph, and tax is chargeable in accordance with this paragraph.

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- (2) A disposal is a “relevant disposal” for the purposes of this paragraph if, in relation to the disposal, SU exceeds TU.
- (3) -In this paragraph, in relation to a disposal of units in the co-ownership authorised contractual scheme –
- “SU” means –
- (a) - where the total number of units in the scheme held by V immediately before the disposal is equal to or greater than the number of seeded units received by V up to that time, the number of seeded units received by V up to that time, or
 - (b) - where the total number of units in the scheme held by V immediately before the disposal is less than the number of seeded units received by V up to that time, the number of units in the scheme held by V immediately before the disposal;
- “TU” means the total number of units in the scheme held by V immediately after the disposal.
- (4) -The amount chargeable is –

$$\frac{U}{SNU} \times SDLT$$

where –

- “U” means the difference between SU and TU;
- “SNU” means the number of seeded units received by V up to the time of the disposal;
- “SDLT” means the amount of tax that would have been chargeable in respect of the relevant transaction but for COACS seeding relief, ignoring any amount of tax that has been charged under this paragraph in respect of the relevant transaction in relation to an earlier disposal of units by V.
- (5) -In this paragraph, “the number of seeded units received by V” up to a certain time means the number of units in the co-ownership authorised contractual scheme received by V before that time in consideration of a transaction for which COACS seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent).

Withdrawal of relief: dwelling occupied by non-qualifying individual

- 18 (1) -This paragraph applies to a transaction (“the relevant transaction”) if –
- (a) - COACS seeding relief has been allowed in respect of the transaction,
 - (b) - the main subject-matter of the transaction consists of or includes a chargeable interest in or over a dwelling, and
 - (c) - a non-qualifying individual (see paragraph 19) is permitted to occupy such a dwelling at any time.

The dwelling which a non-qualifying individual is permitted to occupy is referred to as “the disqualifying dwelling”.

-
- (2) The relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
This is subject to sub-paragraphs (3) and (4).
- (3) -Relief is only withdrawn if, at the time a non-qualifying individual is permitted to occupy the disqualifying dwelling, the co-ownership authorised contractual scheme holds –
- (a) - a chargeable interest in or over that dwelling (“the relevant chargeable interest”), or
 - (b) - a chargeable interest that is derived from the relevant chargeable interest.
- (4) -Where a non-qualifying individual is first permitted to occupy the disqualifying dwelling at a time after the end of the control period, relief is only withdrawn if, at that time, the scheme fails to meet the genuine diversity of ownership condition (see paragraph 15).
- (5) -The amount chargeable is –
- (a) - the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief if the chargeable consideration for that transaction had been so much of the chargeable consideration as is attributable to the relevant chargeable interest, or
 - (b) - (as the case may be) an appropriate proportion of the amount that would have been so chargeable.
- (6) -In sub-paragraphs (2) and (5), an “appropriate proportion” means an appropriate proportion having regard to the extent to which the relevant chargeable interest is an interest in or over property other than the disqualifying dwelling.
- 19 (1) -In paragraph 18 “non-qualifying individual”, in relation to a land transaction and a co-ownership authorised contractual scheme, means any of the following –
- (a) - an individual who is a major participant in the scheme;
 - (b) - an individual who is connected with a major participant in the scheme;
 - (c) - an individual who is connected with the operator of the scheme (see section 121) or the depositary of the scheme;
 - (d) - a relevant settlor;
 - (e) - the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
 - (f) - a relative of an individual falling within paragraph (b), (c) or (d), or the spouse or civil partner of a relative of an individual falling within paragraph (b), (c) or (d);
 - (g) - a relative of the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
 - (h) - the spouse or civil partner of an individual falling within paragraph (g).
- (2) -An individual who participates in the scheme is a “major participant” in it if the individual –
- (a) - is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or

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- income arising from it that may be distributed to participants, or
- (b) - would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (3) -The reference in sub-paragraph (2)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.
- (4) -In this paragraph –
- “depository”, in relation to a co-ownership authorised contractual scheme, means the person to whom the property subject to the scheme is entrusted for safekeeping;
 - “relative” means brother, sister, ancestor or lineal descendant;
 - “relevant settlor”, in relation to a land transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (5));
 - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (5) -Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a land transaction, that settlement is a “relevant settlement” in relation to the transaction.
- (6) -In sub-paragraph (5) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected” persons: supplementary).
- (7) -Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes, subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded.

PART 3

INTERPRETATION

“Feeder fund” and “units”

- 20 (1) In this Schedule –
- a “feeder fund” of a property AIF means an open-ended investment company, an offshore fund, a unit trust scheme or an authorised unit trust scheme –
 - (a) - one of the main objects of which is investment in the property AIF, and
 - (b) - which is managed by the same person as the property AIF;
 - a “feeder fund” of a co-ownership authorised contractual scheme means an open-ended investment company, an

offshore fund, a unit trust scheme or an authorised unit-trust scheme –

- (a) - one of the main objects of which is investment in the co-ownership authorised contractual scheme, and
- (b) which is managed by the same person as the scheme;

“units in the property AIF” means units in –

- (a) - the property AIF, and
- (b) - a feeder fund of the property AIF;

“units in the co-ownership authorised contractual scheme” means units in –

- (a) - the co-ownership authorised contractual scheme, and
- (b) a feeder fund of the scheme;

“units” means the rights or interests (however described) of the participants in the property AIF or the co-ownership authorised contractual scheme.

(2) -In relation to a sub-fund of an umbrella fund (see paragraph 2(3) and (4)), “units in the property AIF” means units in –

- (a) - the separate pool to which that sub-fund relates, and
- (b) - a feeder fund of the sub-fund.

(3) -In relation to a sub-scheme of an umbrella COACS (see section 102A(3) and (4)), “units in the co-ownership authorised contractual scheme” means units in –

- (a) - the separate pool to which that sub-scheme relates, and
- (b) - a feeder fund of the sub-scheme.

Interpretation of other terms

21 In this Schedule –

“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;

“attributable” means attributable on a just and reasonable basis;

“authorised unit trust scheme” means a unit trust scheme in the case of which an order under section 243 of FSMA 2000 is in force;

“COACS seeding relief” means relief under paragraph 10;

“collective investment scheme” has the meaning given by section 235 of FSMA 2000;

“control period” means the period of 3 years beginning with the day following the last day of the seeding period;

“co-ownership authorised contractual scheme” is to be construed in accordance with section 102A (see in particular subsections (2), (5), (7) and (8) of that section);

“CTA 2010” means the Corporation Tax Act 2010;

“FSMA 2000” means the Financial Services and Markets Act 2000;

the “genuine diversity of ownership condition”, in relation to a co-ownership authorised contractual scheme, has the meaning given by paragraph 15;

“ITTOIA 2005” means the Income Tax (Trading and Other - Income) Act 2005;

“non-qualifying individual” has the meaning given by paragraph 9 (in relation to a property AIF) and paragraph 19 (in relation to a co-ownership authorised contractual scheme);

“offshore fund” has the meaning given by section 355 of the Taxation (International and Other Provisions) Act 2010;

“open-ended investment company” has the meaning given by section 236 of FSMA 2000;

“operator”, in relation to a co-ownership authorised contractual scheme, has the meaning given by section 121(2);

“PAIF seeding relief” means relief under paragraph 1;

“participant” is to be read in accordance with section 235 of FSMA 2000;

“portfolio test” has the meaning given by paragraph 6(7) (in relation to a property AIF) and paragraph 16(7) (in relation to a co-ownership authorised contractual scheme);

“property AIF” is to be construed in accordance with paragraph 2 (see in particular sub-paragraphs (2), (5) and (7) of that paragraph);

“relevant disposal” has the meaning given by paragraph 7(2) (in relation to a property AIF) and paragraph 17(2) (in relation to a co-ownership authorised contractual scheme);

“seeding period” has the meaning given by paragraph 3 (in relation to a property AIF) and paragraph 11 (in relation to a co-ownership authorised contractual scheme);

“unit trust scheme” has the meaning given by section 237(1) of FSMA 2000.”

PART 3

CONSEQUENTIAL AMENDMENTS

- 5 - FA 2003 is amended in accordance with this Part.
- 6 - In section 75C (anti-avoidance: supplemental), in subsection (4), after “Schedule 6A” insert “, 7A”.
- 7 (1) -Section 81 (further return where relief withdrawn) is amended as follows.
 - (2) -In subsection (1) –
 - (a) omit “or” at the end of paragraph (b), and
 - (b) - after paragraph (b) insert –
 - “(ba) paragraph 5, 7 or 8 of Schedule 7A (PAIF seeding relief),
 - (bb) - paragraph 13, 17 or 18 of Schedule 7A (COACS seeding relief), or”.
 - (3) -In subsection (1A), after “transactions)” insert “, or under paragraph 6 of Schedule 7A (PAIF seeding relief) or paragraph 14 or 16 of Schedule 7A (COACS seeding relief),”.

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- (4) In subsection (1B), after paragraph (e) insert – -
- “(f) - in the case of relief under paragraph 6 of Schedule 7A (PAIF seeding relief: portfolio test) –
 - (i) - where relief is withdrawn under sub-paragraph (1) of that paragraph, the last day of the seeding period (see paragraph 3 of that Schedule), or
 - (ii) - where relief is withdrawn under sub-paragraph (3) of paragraph 6, the relevant time mentioned in that sub-paragraph;
 - (g) - in the case of relief under paragraph 14 of Schedule 7A (COACS seeding relief: genuine diversity of ownership condition), the relevant time mentioned in sub-paragraph (1) of that paragraph;
 - (h) - in the case of relief under paragraph 16 of Schedule 7A (COACS seeding relief: portfolio test) –
 - (i) - where relief is withdrawn under sub-paragraph (1) of that paragraph, the last day of the seeding period (see paragraph 11 of that Schedule), or
 - (ii) - where relief is withdrawn under sub-paragraph (3) of paragraph 16, the relevant time mentioned in that sub-paragraph.”

- (5) -In subsection (4), after paragraph (b) insert –
- “(ba) in relation to the withdrawal of PAIF seeding relief –
 - (i) - the purchaser ceasing to be a property authorised investment fund as mentioned in paragraph 5 of Schedule 7A,
 - (ii) - a person who is the vendor making a relevant disposal of units as mentioned in paragraph 7 of that Schedule, or
 - (iii) - the grant of permission to a non-qualifying individual to occupy a dwelling as mentioned in paragraph 8 of that Schedule;
 - (bb) - in relation to the withdrawal of COACS seeding relief –
 - (i) - the purchaser ceasing to be a co-ownership authorised contractual scheme as mentioned in paragraph 13 of Schedule 7A,
 - (ii) - a person who is the vendor making a relevant disposal of units as mentioned in paragraph 17 of that Schedule, or
 - (iii) - the grant of permission to a non-qualifying individual to occupy a dwelling as mentioned in paragraph 18 of that Schedule;”.

8 In section 86 (payment of tax), in subsection (2) –

- (a) - omit “or” at the end of paragraph (b), and
- (b) - after paragraph (b) insert –

“(ba) - Part 1 of Schedule 7A (PAIF seeding relief),

(bb) Part 2 of Schedule 7A (COACS seeding relief), or”.

9 - (1) Section 87 (interest on unpaid tax) is amended as follows.

(2) In subsection (3) –

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- (a) - in paragraph (a) –
- (i) omit “or” at the end of paragraph (ii), and
 - (ii) - after paragraph (ii) insert –
 - “(iia) paragraph 5, 7 or 8 of Schedule 7A (PAIF seeding relief),
 - (iib) - paragraph 13, 17 or 18 of Schedule 7A (COACS seeding relief), or”;
- (b) - after paragraph (a) insert –
- “(azza) in the case of an amount payable because relief is withdrawn under sub-paragraph (3) of paragraph 6 of Schedule 7A (PAIF seeding relief: portfolio test), the relevant time mentioned in that sub-paragraph;
 - (azzb) in the case of an amount payable because relief is withdrawn under sub-paragraph (1) of paragraph 14 of Schedule 7A (COACS seeding relief: genuine diversity of ownership condition) at a time mentioned in paragraph (b) or (c) of that sub-paragraph, the relevant time mentioned in that sub-paragraph;
 - (azzc) in the case of an amount payable because relief is withdrawn under sub-paragraph (3) of paragraph 16 of Schedule 7A (COACS seeding relief: portfolio test), the relevant time mentioned in that sub-paragraph;”.
- (3) -In subsection (4), for “means – ” to the end substitute “has the same meaning as in section 81(4).”
- 10 - In section 121 (minor definitions) –
- (a) - the existing text becomes subsection (1), and
 - (b) - after that subsection insert –
 - “(2) - In this Part, “operator” –
 - (a) - in relation to a co-ownership authorised contractual scheme constituted under the law of the United Kingdom, has the meaning given by section 237(2) of the Financial Services and Markets Act 2000;
 - (b) - in relation to a collective investment scheme treated as a co-ownership authorised contractual scheme by virtue of section 102A(7) (equivalent EEA schemes), means the corporate body responsible for the management of the scheme (however described).”
- 11 - In section 122 (index of defined expressions), at the appropriate place insert –

“COACS seeding relief - Schedule 7A, paragraph 10(1)”

“co-ownership authorised contractual scheme - section 102A” -

-
- “operator (in relation to a section 121” -
co-ownership authorised -
contractual scheme) -
- “PAIF seeding relief - Schedule 7A, paragraph
1(1)”
- “property AIF - Schedule 7A, paragraph 2”.
- 12 - In Schedule 4A (SDLT: higher rate for certain transactions), in paragraph 2(6) –
(a) - omit “and” at the end of paragraph (d), and
(b) - after paragraph (d) insert –
“ (da) - Schedule 7A (PAIF seeding relief and COACS seeding relief), and”.
- 13 - In Schedule 6B (transfers involving multiple dwellings), in paragraph 2(4)(b), after “Schedule 7” insert “, Schedule 7A”.

PART 4

COMMENCEMENT AND TRANSITIONAL PROVISION

Commencement and transitional provision

- 14 (1) -The amendments made by Parts 2 and 3 of this Schedule have effect in relation to any land transaction of which the effective date is, or is after, the date on which this Act is passed.
- (2) -But those amendments do not have effect in relation to a transaction if –
(a) - the transaction is effected in pursuance of a contract entered into and substantially performed before the date on which this Act is passed, or
(b) - the transaction is effected in pursuance of a contract entered into before that date and is not excluded by sub-paragraph (3).
- (3) -A transaction effected in pursuance of a contract entered into before the date on which this Act is passed is excluded by this subsection if –
(a) - there is any variation of the contract, or assignment (or assignation) of rights under the contract, on or after that date,
(b) - the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
(c) - on or after that date there is an assignment (or assignation), subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (4) -In this paragraph –
“purchaser” has the same meaning as in Part 4 of the Finance Act 2003 (see section 43(4) of that Act);
“substantially performed”, -in relation to a contract, has the same meaning as in that Part (see section 44(5) of that Act).