



# Investment Management Exemption and Collective Investment Schemes – expanding the “white list”

## **Consultation document**

Publication date: 22 July 2013

Closing date for comments: 16 September  
2013

<b>Subject of this consultation:</b>	The published 'white list' within secondary legislation governing the investment manager exemption, authorised investment funds, investment trusts and offshore reporting funds. The list provides certainty that specified transactions will not be treated as trading activities and also acts to determine the types of investment transactions that may qualify for the investment manager exemption.
<b>Scope of this consultation:</b>	The Government announced at Budget 2013 that it would consult on proposals to expand the white list. HMRC are asking for views on the scope of the extension.
<b>Who should read this:</b>	HM Revenue & Customs (HMRC) would like to hear in particular from tax practitioners, fund managers, representative bodies, administrators and other interested parties.
<b>Duration:</b>	22 July to 16 September 2013
<b>Lead officials:</b>	Graeme Webster
<b>How to respond or enquire about this consultation:</b>	Please send responses by email to: <a href="mailto:graeme.webster@hmrc.gsi.gov.uk">graeme.webster@hmrc.gsi.gov.uk</a> or by post to:  Graeme Webster Room 3C/01 100 Parliament Street London SW1A 2BQ  Enquiries about this consultation should be directed to – Graeme Webster Tel 020 7147 0617 or Wayne Strangwood Tel 020 7147 2545
<b>Additional ways to be involved:</b>	HMRC will consider holding further meetings with interested parties to discuss the proposals in this consultation. The timing, format and venue of meetings will be informed by expressions of interest received.
<b>After the consultation:</b>	A summary of responses together with draft legislation and guidance will be published in autumn 2013.
<b>Getting to this stage:</b>	This consultation follows an announcement at Budget 2013. This is the first stage in the formal consultation process.
<b>Previous engagement:</b>	HMRC has held informal discussions with interested stakeholders to identify the key issues that need to be addressed, and the proposals for change.

# Contents

1	Introduction	4
2	The proposal	6
3	Assessment of Impacts	7
4	The Consultation Process: How to Respond	8

**On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats**

# 1. Introduction

## The UK investment management strategy

1. The Government published “The UK investment management strategy<sup>1</sup>” at Budget 2013. The document made it clear that the Government is determined to protect the UK’s position as Europe’s leading centre for fund management and to improve its competitive position in the face of continued developments in the industry and the regulatory environment.
2. As part of that strategy, the Government committed to consult on expanding the published ‘white list’ within secondary legislation governing the investment manager exemption (‘IME’), authorised investment funds (‘AIFs’), investment trusts and (‘ITCs’) and offshore reporting funds. The list provides certainty that specified transactions will not be treated as trading activities and also acts to determine the types of investment transactions that may qualify for the investment manager exemption.

## Background to the “white list”

3. The general policy underlying the taxation of investors in collective investment schemes (‘CISs’) is that it should be similar to that applying to investors with direct interests in the underlying assets. For private investors, transactions such as buying and selling shares are considered to be investment activities. Gains or losses on disposal are therefore treated as capital for tax purposes. By contrast, similar transactions would be taxed as income for financial traders.
4. In order to ensure that investors in AIFs, ITCs and offshore reporting funds are taxed in the same way as private investors in the underlying assets, tax legislation<sup>2</sup> provides that a “white list” of certain transactions (for example, in shares, securities, or foreign currency) will, when carried out by fund managers on behalf of such funds, always be treated as “investment transactions”.
5. For UK CISs, application of the white list would then result in returns from the specified transactions being treated as either investment income (e.g. dividends) or, on disposal of the assets, capital receipts. For an offshore reporting fund there is a similar treatment for the purposes of calculating the income to be reported to UK investors.
6. In the case of foreign domiciled funds that are managed in the United Kingdom, provided that the fund itself is not resident in the UK or trading, the fund will not

---

<sup>1</sup> see

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/188368/uk\\_investment\\_management\\_strategy.pdf.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/188368/uk_investment_management_strategy.pdf.pdf)

<sup>2</sup> The Authorised Investment Funds (Tax) Regulations 2006, S.I. 2006/964 (as amended); the Offshore Funds (Tax) Regulations 2009, S.I. 2009/3001 (as amended); and the Investment Trust (Approved Company) (Tax) Regulations 2011, S.I. 2011/2999 (as amended).

be taxable in the UK. (The manager will separately be taxable on the remuneration it receives for managing the fund). However, if a UK managed non-resident fund carried out transactions that were held to be trading then that would cause the fund's trading profits to be taxable in the UK. In this context the white list supports the IME,<sup>3</sup> such that the specified transactions, subject to the meeting of certain conditions, will not be taxable in the UK.

7. When the white list was first published for IME purposes, the Government stated that it intended to keep the list of specified transactions under review. To reflect continued evolution of the asset management industry, the Government is therefore now consulting on adding 'investment in traded life policies (TLPs)' to the list and a broader definition of carbon credits.
8. TLPs are investments in the life insurance policies of US citizens. US citizens with a terminal illness or otherwise shortened life expectancy may sell their life policies to third parties. The purchaser will then continue to make the payments and collect the payout when the insured party dies. Whilst the FCA has issued guidance stating that these investments are complex, high risk and unsuitable for most retail clients, there is nevertheless an active market in these products for institutional and other sophisticated investors.
9. In respect of carbon credits – the white list already permits trading in European Community tradable emissions allowances and transferable credits issued pursuant to the Kyoto Protocol. To reflect development of the carbon trading market the Government is proposing to expand this definition to allow trading in other carbon credit systems.
10. This consultation is seeking views on the proposed drafting for those additions.

---

3

## 2. The proposal

11. The scope of the additions to the white list is set out in the proposed drafting below. Views are sought on the draft additions so that changes can be made to the relevant regulations in the Autumn.
12. The white list will be amended to include the following, the precise location of which will depend upon the wording of various regulations

- a. **“any transaction in rights under a life insurance policy”**

In the list of carbon emission trading products which fall within the meaning of investment transaction, the proposed amendment is to replace the current (a) and (b) of the definition of carbon emission trading products with the following:

- b. **“any transferable unit relating to emissions of greenhouse gases,”**

The same meaning of "unit" would be retained as in the current definition with a reference to the Kyoto Protocol.

13. The proposed changes will take place in the following legislation
  - a. Authorised Investment Funds (Authorised Unit Trusts and Open-ended investment Companies) at Part 2B (regulations 14E to 14N) of “The Authorised Investment Funds (Tax) Regulations 2006” (SI 2006/964).
  - b. Offshore Reporting Funds at Chapter 6 of Part 3 (regulations 80 to 89 in particular) of “The Offshore Funds (Tax) Regulations 2009” (SI 2009/3001).
  - c. Investment Trust Companies at Part 3 (regulations 32 to 41) of “The Investment Trust (Approved Company) (Tax) Regulations 2011” (SI 2011/2999).
  - d. Changes to the Investment Trust (Approved Company) (Tax) Regulations 2011 will also cover investment transactions for the purposes of the new draft Exempt Unauthorised Unit Trust legislation.
  - e. The Investment Management (Specified Transaction) Regulations 2009.

### Questions

**Question 1: Respondent’s views are sought on the proposed drafting set out in paragraph 12.**

**Question 2: Do respondents wish to propose an alternative form of words for the additions to the list, or their scope? If so please provide full details and explain the basis for the proposed alternative.**

**Question 3: Do you have any comments on the assessment of the impacts of these proposals in the Tax Impact Assessment on page 7, including but not limited to equality impacts, small firms impacts and burden reductions generally?**

**Question 4: Do Respondents think that the new definition of carbon trading emissions products covers the existing (a) and (b) limbs of the definition and products under the new carbon emissions trading schemes?**

### 3. Assessment of Impacts

#### Summary of Impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	Negligible	Negligible	Negligible	Negligible	Negligible
<b>Economic impact</b>	The measure is not expected to have any significant economic impacts.				
<b>Impact on individuals and households</b>	It is not expected that there will be any significant direct impact on individuals and households generally.				
<b>Equalities impacts</b>	There is no evidence to suggest that the measure will have any adverse equalities impacts for any particular groups.				
<b>Impact on businesses and Civil Society Organisations</b>	This measure is expected to have some positive impact in reducing compliance burdens for managers of funds affected by the proposals.				
<b>Impact on HMRC or other public sector delivery organisations</b>	It is not anticipated that implementing this change will incur any significant costs for HMRC.				
<b>Other impacts</b>	Small firms impact test: small firms will be positively affected to the extent that they form part of the population of affected fund managers.  Other impacts have been considered and none have been identified.				

## 4. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals (although views are sought on the formulation of the proposed change).

### How to respond

The questions in this consultation are included at chapter 2.

Responses should be sent by 16/09/2013 by e-mail to [graeme.webster@hmrc.gsi.gov.uk](mailto:graeme.webster@hmrc.gsi.gov.uk) or by post to Graeme Webster, Room 3C/01 100 Parliament Street, London SW1A 2BQ.

Any enquiries should be directed to Graeme Webster on Tel 020 7147 0617 ([graeme.webster@hmrc.gsi.gov.uk](mailto:graeme.webster@hmrc.gsi.gov.uk)), Wayne Strangwood on Tel 020 7147 2545 ([wayne.a.strangwood@hmrc.gsi.gov.uk](mailto:wayne.a.strangwood@hmrc.gsi.gov.uk)) or John Buckeridge on Tel 020 7147 2560 ([john.buckeridge@hmrc.gsi.gov.uk](mailto:john.buckeridge@hmrc.gsi.gov.uk)).

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.



If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

Please do not send responses to the consultation to this address.