

Fund details continued

9	For an existing fund, have you got shareholder approval to the instrument of incorporation and prospectus? (Regulation 690(4))		
No	<input type="checkbox"/>	Yes	<input type="checkbox"/>

Condition 1 - the property investment business condition (Regulation 69E)

Read Note 5 on page 9

10	Please show where in the fund's prospectus and instrument of incorporation it is stated that the company's objectives are:						
<ul style="list-style-type: none">to carry on property investment business	<table border="1"><tr><td>Prospectus</td><td>Instrument of incorporation</td></tr><tr><td>Page</td><td>Page</td></tr><tr><td>Paragraph</td><td>Paragraph</td></tr></table>	Prospectus	Instrument of incorporation	Page	Page	Paragraph	Paragraph
Prospectus	Instrument of incorporation						
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<ul style="list-style-type: none">to manage cash raised from investors for investment in the property investment business	<table border="1"><tr><td>Prospectus</td><td>Instrument of incorporation</td></tr><tr><td>Page</td><td>Page</td></tr><tr><td>Paragraph</td><td>Paragraph</td></tr></table>	Prospectus	Instrument of incorporation	Page	Page	Paragraph	Paragraph
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Condition 2 - the genuine diversity of ownership (GDO) condition (Regulation 69J)

11	Has the fund got clearance for the GDO condition? Put 'X' in the box	13	Have there been any changes in substance to the relevant documentation since the clearance was given?		
No	<input type="checkbox"/>	If No, go to box 14	No	<input type="checkbox"/>	If No, go to box 30
Yes	<input type="checkbox"/>		Yes	<input type="checkbox"/>	If Yes, go to box 14
12	What date was clearance given by HMRC? DD MM YYYY		14	If the fund has not already got clearance for the GDO condition, or if the fund documentation has changed in substance since you got clearance, the fund is now required to demonstrate that it meets Conditions A to C in order to satisfy or continue to satisfy the GDO condition. (Regulation 9A)	
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				

Condition 2 – the genuine diversity of ownership (GDO) condition continued

Condition A – scheme documentation (read Note 4 on page 9)

Please show where in the fund's prospectus and instrument of incorporation the following information is contained.

15 A statement that shares in the company will be widely available

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16 Specification of the intended category of investor

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Paragraph

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17 Confirmation that the manager of the scheme must market and make available the shares in the company in accordance with condition C on page 4

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Condition B – terms and conditions of the scheme

18 Please explain how you do not consider either:
a) the specification of the intended categories of investors
b) any other terms or conditions governing the participation in the fund, whether or not specified in the fund documentation will have a limiting or deterring effect

Please note that, limiting or deterring effect means an effect which:

- limits the investors to a limited number of specific persons or groups of connected persons (within the meaning of section 839 ICTA 1988)
- deters a reasonable investor within the intended categories of investor from investing in the fund

Please explain in the box below, referring as necessary to the fund documentation, how condition B is satisfied.

Please continue on a separate piece of paper if necessary.

Condition 2 – the genuine diversity of ownership (GDO) condition continued

Condition C – marketing requirements

19 Is the fund already established? Put 'X' in the box

No If No, go to box 30

Yes

20 Does the fund market and make available information (as per condition C Regulation 9A(6)) in accordance with the relevant statements made in the fund documentation?

No

Yes If Yes, go to box 30

21 If the fund does not market and make available information in accordance with its fund (or draft fund) documentation supplied, please provide an explanation. Tell us why this is the case and, where necessary, set out proposed changes in practices that will be put in place to comply with condition C. Please continue on a separate piece of paper if necessary.

PAIFs and associated unit trust schemes

22 Is the fund, that is seeking a GDO clearance, a PAIF which has an associated unit trust scheme (that is, a feeder fund)?

No If No, go to box 30

Yes

23 The PAIF can choose to take account of the investors in the feeder fund to demonstrate that the GDO condition has been met for the fund.

If you do choose to take account of the investors in the feeder fund, the clearance will only be valid as a PAIF. If the fund ceases to be a PAIF then the clearance will cease to have effect.

Do you want the investors in the feeder fund to be taken into account for the GDO clearance?

No If No, go to box 30

Yes

24 Do the PAIF and the feeder fund have the same manager (or proposed manager)?

No

Yes

25 Have you submitted the fund documentation of the feeder fund?

No

Yes

Condition 2 – the genuine diversity of ownership (GDO) condition continued

PAIFs and associated unit trust schemes continued

You will need to demonstrate that the feeder fund itself has satisfied conditions A to C of the GDO in order for the PAIF to receive clearance for the application.

For condition A, please advise where in the feeder fund documentation the following is contained.

26 A statement that units in the feeder fund will be widely available

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Paragraph

27 Details of the intended category of investor in the feeder fund

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28 Confirmation that the manager of the feeder fund must market and make available the units in the fund in accordance with condition C (Regulation 9A(6))

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29 Please explain in the box below, referring as necessary to the feeder fund documentation, how condition B is satisfied (read Note 3 on page 9).

Please continue on a separate piece of paper if necessary.

Condition 3 – the corporate ownership condition (Regulation 69K and 69L)

Read Note 7 on page 9.

The company must meet conditions A to C and (if applicable) condition D at the time that this notice begins to apply and throughout the accounting period.

Condition A

30 Please demonstrate that the company has taken reasonable steps to prevent a body corporate from becoming beneficially entitled (directly or indirectly) to 10% or more of the net asset value of the fund

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Instrument constituting the fund
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Condition 3 – the corporate ownership condition continued

Either conditions B and C

- 31 The company provides in its instrument of incorporation and prospectus that a body corporate is prohibited from acquiring shares in the company and, where it does so, it does not hold the shares as beneficial owner and it provides a certificate in accordance with Regulation 69L(3)

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Or condition B

Please show where in the fund's prospectus and instrument of incorporation the following provisions are made.

- 32 That any body corporate is required to undertake not to acquire 10% or more of the share capital of the company

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- 33 That any body corporate, on becoming aware that it has acquired 10% or more of the share capital of the company, undertakes to reduce its holding to below 10%

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Condition C

Please show where in the fund's prospectus and instrument of incorporation the following provisions are made.

- 34 That any body corporate is required to certify that it is the beneficial owner of the shares it has acquired

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- 35 That, where any body corporate has acquired shares other than as beneficial owner, it holds less than 10% of the share capital on behalf of itself or on behalf of any other corporate beneficial owner and it has got undertakings from every other body corporate, on whose behalf it owns shares, that it will comply with condition B above.

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Condition 3 – the corporate ownership condition continued

Condition D

- 36 Please show where in the fund's prospectus and instrument of incorporation that where a body corporate acquires shares in the company other than as beneficial owner of those shares, upon request by the manager of the company, it will disclose the names of any bodies corporate on whose behalf it owns shares and the extent of such holdings

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Condition 4 – the loan creditor condition (Regulation 69M)

Read Note 6 on page 9

The company must meet conditions A to C throughout the accounting period in the case of any loan relationship to which it is partly as a debtor.

- 37 Please state whether the company has met each of the conditions A to C as shown in note 6 on page 9.

Condition A

No Yes

Condition B

No Yes

Condition C

No Yes

Condition 5 – the balance of business condition (Regulation 69N)

Existing fund

- 38 Is at least 60% of the fund's net income derived from the property investment business?

No Yes

- 39 Are at least 60% of the fund's assets those of the property investment business?

No Yes

Newly qualified or future fund

- 40 Will at least 40% of the fund's net income derive from the property investment business in its first accounting period?

No Yes

- 41 Will at least 40% of the fund's assets be assets of the property investment business at the end of its first accounting period?

No Yes

Other information

42 Use this space for any other information you need to tell us about.
Please continue on a separate piece of paper if necessary.

Declaration

Statement to be completed by the manager or, for a new fund, the proposed manager.

I confirm that conditions 1 to 5 are reasonably expected to be met for the fund throughout the specified accounting period (read Note 3 on page 9) or, for the future fund, throughout its first accounting period starting on its date of incorporation and authorisation.

Signature

Name use capital letters

Date of notice DD MM YYYY

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What to do now

Please send your completed notice and attachments to:
Collective Investment Schemes Centre (CISC)
Wealthy/Mid-size Business Compliance
HM Revenue and Customs
BX9 1HT

Notes

You can find more guidance on the application of the PAIF regime in our Investment Funds Manual at IFM04000, go to www.gov.uk/hmrc-internal-manuals/investment-funds/ifm04000

Note 1

If, for an existing or a future fund, clearance has been given for the GDO condition and there have been no changes in substance to the documentation considered by HMRC between the clearance and the documentation in place at the beginning of the accounting period (or the documents that will apply at the time the fund is authorised for a future fund), then the notice may be submitted at any time before the regime will begin to apply (Regulation 69P(7) or (8) SI 2006/964). In all other respects, except for the notice period, the same rules apply to giving notice as normal.

Note 2

The notice can only apply from the start of an accounting period as defined in section 12 ICTA 1988. For a future fund, the start of the accounting period will be the date of incorporation and authorisation.

Note 3

Specified accounting period is the period from the start of the accounting period to which the PAIF regime is to apply continuously, until the fund leaves the PAIF regime.

Note 4

The relevant scheme documentation is the instrument of incorporation for the fund and the prospectus of the fund (Regulation 9A(9)).

Note 5

In order for Regulation 69E to apply, the OEIC must meet 2 conditions the:

- manager must make sure that the OEIC's instrument of incorporation and prospectus state that its investment objectives are to carry on a property investment business and to manage the cash raised from investors for investment in the property investment business (Regulation 69E(2))
- OEIC must carry on a property investment business

Note 6

The fund must meet the loan creditor condition (in accordance with Regulation 69M Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964)). This regulation specifies that 3 conditions must be met throughout the accounting period. The conditions are based on the fund being in the debtor position.

Note 7

The fund must meet the corporate ownership condition (in accordance with Regulations 69K and 69L). These regulations specify that 4 conditions must be met throughout the accounting period. These conditions are also detailed at IFM04170.

Condition A is that the fund must not pay interest to the creditor which depends on (a) the results of the fund's business, or (b) the value of any assets of the fund. A loan will not be treated as depending on (a) if interest is to be reduced in the event of results improving, or if the interest is to be increased in the event of results deteriorating.

Condition B is that the creditor is not entitled to interest which exceeds a commercial return on the consideration.

Condition C is that the creditor, on repayment of the loan, is entitled to an amount that does not exceed the consideration lent, or is reasonably comparable with the amount repayable under the terms of issue of securities listed on a recognised stock exchange.

A recognised stock exchange is defined in section 1005 (3) and (4) ITA 2007. You can find a list of recognised stock exchanges at www.gov.uk/guidance/recognised-stock-exchanges