
DRAFT STATUTORY INSTRUMENTS

2011 No.

The Investment Trust (Approved
Company) (Tax) Regulations 2011

PART 2

Investment Trusts

CHAPTER 1

Application procedure

Interpretation

4. In this Part—

“the eligibility conditions” mean conditions A to C in section 1158 of CTA 2010,

“the income distribution requirement” has the meaning given in regulation 21(9).

Application for approval as an investment trust

5.—(1) A company may apply to the Commissioners⁽¹⁾ for approval as an investment trust in accordance with this Chapter.

(2) A company which makes such an application is referred to in this Chapter as “the applicant”.

Contents of application

6.—(1) An application under regulation 5 must include the particulars specified in this regulation.

(2) The application must—

- (a) specify the date of the first day of an accounting period in respect of which the applicant seeks approval as an investment trust (“the specified date”),
- (b) contain a statement that the applicant meets, or is expected to meet, in respect of the accounting period referred to in sub-paragraph (a)—
 - (i) the eligibility conditions, and
 - (ii) the requirements of Chapter 3 of this Part,
- (c) contain an undertaking given in relation to the accounting period referred to in sub-paragraph (a) and each subsequent accounting period in respect of which it is or expects to be an investment trust, that the applicant will meet—
 - (i) the eligibility conditions, and
 - (ii) the requirements of Chapter 3 of this Part,

⁽¹⁾ Section 1159 of the Corporation Tax Act 2010 defines “the Commissioners” as the Commissioners for Her Majesty’s Revenue and Customs.

- (d) include a copy of the applicant's current published investment policy, and
- (e) provide evidence to show that the shares making up the applicant's ordinary share capital (or, if there are such shares of more than one class, those of each class) are admitted to trading on a regulated market⁽²⁾.

This regulation is subject to regulations 7, 8, 9 and 13.

Contents of application: accounting period not commenced at time of application

7.—(1) This regulation applies if at the time the application is made the applicant has not commenced an accounting period.

- (2) If this regulation applies the applicant must—
 - (a) specify a provisional date for the purposes of regulation 6(2)(a), and
 - (b) where a provisional date is specified, as soon as reasonably practicable, confirm in writing to the Commissioners the date of the first day of the accounting period in respect of which the applicant seeks approval as an investment trust.

Contents of application: shares not admitted to trading at time of application

8.—(1) This regulation applies if at the time the application is made the shares making up the applicant's ordinary share capital (or, if there are such shares of more than one class, those of each class) are not admitted to trading on a regulated market.

- (2) If this regulation applies, the application—
 - (a) for the purposes of regulation 6(2)(d), may include a copy of the applicant's prospectus instead of the current published investment policy, and
 - (b) must explain how the applicant will be in a position to comply with condition B in section 1158(3) of CTA 2010 by the specified date.
- (3) The applicant must provide evidence to the Commissioners that the shares making up the applicant's ordinary share capital (or, if there are such shares of more than one class, those of each class) are admitted to trading on a regulated market—
 - (a) before the end of a period of 60 days beginning with the date on which the shares were so admitted, or
 - (b) by such other date as the Commissioners may agree.

Form, timing and withdrawal of application

- 9.—(1) An application must be made in writing to the Commissioners.
- (2) The application must be made to the Commissioners before the end of the period of 90 days beginning with the last day of the first accounting period for which approval is sought.
- (3) The applicant may withdraw the application at any time during the period beginning with the day on which the application is made and ending 28 days after the day on which the Commissioners give notice under regulation 10 accepting the application.

Response by Commissioners to application

- 10.—(1) Within 28 days beginning with the date on which the application is made, the Commissioners must give notice in writing to the applicant—
 - (a) accepting the application,

(2) Section 1158 defines "regulated market".

- (b) rejecting the application, or
 - (c) asking for further information in order to consider the application.
- (2) The Commissioners must not accept an application if any particular or information mentioned in regulation 6, 7 or 8 is not supplied.
- (3) Paragraph (4) applies if—
- (a) the Commissioners have given a notice under paragraph (1)(c), and
 - (b) the applicant provides the further information within the period of 28 days beginning with the day on which the Commissioners ask for the further information, or within such longer period as may be agreed by the Commissioners.
- (4) Within 28 days beginning with the day on which they receive the further information, the Commissioners must give notice to the applicant—
- (a) accepting the application, or
 - (b) rejecting the application.
- (5) If the Commissioners reject the application, the notice given to the applicant under paragraph (1)(b) or (4)(b) must contain a statement of the reason for which the application was rejected.

Appeal against rejection of the application

- 11.**—(1) If the Commissioners reject an application, the applicant may appeal.
- (2) The notice of appeal must be given to the Commissioners within a period of 42 days beginning with the day on which the notice rejecting the application is given.
- (3) On an appeal, the tribunal may uphold or quash the rejection of the application.
- (4) If the tribunal quashes the rejection of the application, these Regulations apply as if the Commissioners had accepted the application in the form in which it was considered by the tribunal.

Effect of acceptance of application

12. If the Commissioners accept (or are treated as accepting) an application, the applicant is approved as an investment trust—

- (a) for the accounting period commencing on the specified date (or commencing on such later date as may be confirmed in accordance with regulation 7(2)(b)), and
- (b) for each subsequent accounting period,

but this is subject to regulations 13 and 25 to 31.

Acceptance of application conditional on receipt of specified information

13.—(1) An acceptance by the Commissioners of an application is conditional on the provision of any information or particulars required by regulations 7(2)(b) and 8(3).

(2) If the applicant does not provide any such information or particulars, the application shall be treated as if it had not been made and the company treated as if it had not been an investment trust for any of the period to which the application mentioned in paragraph (1) related.