

**CHARITIES
(ACCOUNTS AND REPORTS)
REGULATIONS 2005**

REGULATORY IMPACT ASSESSMENT

FOR

INVESTMENT FUND CHARITIES

MARCH 2005

1. Title of proposal

- 1.1. Regulations relating to the accounting and reporting requirements of Investment Fund Charities (including Common investment Funds (CIFs) and Common Deposit Funds (CDFs)) which will be part of the Charities (Accounts and Reports) Regulations 2005 made under the Charities Act 1993.

2. Purpose and intended effect of measure

2.1. The objective

- 2.1.1 The requirements will amend the relevant parts of the Charities (Accounts and Reports) Regulations 1995 (the 1995 Regulations) to:

- address certain changes to the governance and regulatory framework in which certain CIFs operate; and
- create consistency of reporting requirements with the Investment Management Association's Statement of Recommended Accounting Practice (SORP) for the Financial Statements of Authorised Funds published in November 2003.

2.2. Devolution

- 2.2.1. The Regulations affect charities in England and Wales only.

2.3. The background

- 2.3.1. The 1995 Regulations included accounting provisions relating to CIFs which were consistent with the SORP for Authorised Unit Trust Schemes published by the Investment Management Regulatory Organisation in April 1991 and also set out information to be provided in the annual reports of such charities. Two changes have occurred which makes these provisions out of date:

- The Charity Commission has changed its policy in relation to CIFs, other than pooling schemes, requiring them to have governance arrangements similar to authorised unit trusts. These changes mean that amendments are needed to disclosures provided in the annual report and reporting responsibilities.
- The SORP for Authorised Unit Trust Schemes has been superseded and the Regulations require certain amendments to ensure consistency with the requirements placed on authorised unit trusts and open-ended investment companies by the Statement of Recommended Practice for the Financial Statements of Authorised Funds published by the Investment Manager Association in November 2003.

2.4. Risk assessment

- 2.4.1. The risk of not revising the Regulations is that the regulatory framework is out of step with developments in governance now generally adopted by CIFs. In particular, new schemes adopted by CIFs no longer confer the whole administrative responsibility on a body of individual trustees but allocate responsibilities between a professional fund manager and a professional or corporate trustee with some schemes also providing for an advisory board. Without amendment the Regulations would fail to recognise these new governance structures and the reporting responsibilities they entail.
- 2.4.2. The accounting framework provided by the Regulations would be inconsistent with recommended practice adopted by authorised funds and in particular would continue to apply the valuation bases provided by a superseded SORP.

2.5. Options

2.6. Option 1: Retain the 1995 Regulations

- 2.6.1. This option would result in maintaining an annual reporting framework that fails to recognise the governance and reporting structure now adopted by the majority of Commercial CIFs. The accounting methods and principles for valuing fund assets and liabilities would seek compliance with a superseded SORP.

2.7. Option 2: Implement the new Regulations

3. Benefits

3.1. Option 1: Retain the 1995 Regulations

- 3.1.1. This option would not provide any benefits.

3.2. Option 2: Implement the new Regulations

- 3.2.1. The changes in the regulations will:

- allow investment fund charities to prepare reports and accounts using methods and principles consistent with the Investment Management Association's SORP; and
- ensure reporting responsibilities and information provided with the annual report reflects the governance arrangement currently adopted.

4. Business sectors affected

- 4.1. The proposed changes affect some thirty-eight CIFs of which eight are “hybrid” schemes which limit participation to charities that are connected to the body of trustees that administer the investment fund. Of these some twenty-nine CIFs have adopted new governance arrangements along the lines of those applying to authorised unit trusts. Currently there is only one CDF affected by the proposed changes. Most investment fund charities are administered by professional fund

managers. The impact on their reporting requirements would be limited to when they report as trustee of such funds.

5. Race impact assessment

- 5.1. It is not considered that the proposed changes will bring disproportionate benefits or costs to any particular groups. Research conducted by the Council for Ethnic Minority Organisations (CEMVO) suggests that the majority of BME organisations are small, with an income of less than £10,000, and so would not be affected by the proposed Regulations. A review by the Charity Commission of the CIFs affected by the proposed Regulations did not identify any of these investment fund charities as being connected with BME organisations.

6. Sustainable development

- 6.1. Consideration has been given to whether these proposals will have costs or provide benefits to environmental protection, social values and progress, or the economy's long term growth and development. The proposals would not lead to any disproportionate adverse impact.

7. Costs

7.1. Compliance costs

- 7.1.1. There will be only marginal change to compliance costs for the small number of charities concerned.

7.2. Option 1: Retain the 1995 Regulations

- 7.2.1. If the Regulations are not changed certain indirect compliance costs may be incurred by investment fund charities as a result of producing annual reports that seek to address new governance structures without a framework for such reporting being provided by the Regulations. Similar costs might also arise in seeking to comply with the valuation methods and principles of a superseded SORP.

7.3. Option 2: Implement the new Regulations

- 7.3.1. The proposed changes impact primarily on those investment fund charities that have adopted new governance arrangements which allocate the responsibilities for operating the fund between a professional fund manager and a professional or corporate trustee. These changes in governance arrangement are reflected in the reallocation of responsibilities for preparation of accounts and annual reports and do not give rise to additional compliance costs.
- 7.3.2. A number of changes are proposed to the information provided within the Trustees Annual Report including an explanation of the objectives of the fund and details of whether persons conducting regulated activities hold relevant authorisation. These proposed changes are unlikely to create any significant compliance costs.

- 7.3.3. The key change proposed to the accounting requirements is for the methods and principles contained within the Statement of Recommended Practice for the Financial Statements of Authorised Funds to be applied in valuing fund assets and liabilities. These methods and principles are consistent with the superseded Statement of Recommended Practice for Authorised Unit Trust Scheme adopted by the 1995 Regulations and therefore no significant compliance costs are anticipated as a result of this change.
- 7.3.4. The minor changes to form and content of investment fund accounts including the introduction of a more relevant analysis of expenditure incurred in the administration of the funds and the balance sheet disclosure of reserves held by CDFs reflect current reporting practice and again are unlikely to result in any significant increase in compliance costs.
- 7.3.5. It is recognised that those charged with the administration of such investment funds will incur some one-off time costs in acquainting themselves with the proposed Regulations. Achieving compliance with the Investment Management Association's SORP creates little regulatory costs due to the consistency with the superseded SORP. Fund managers have experience in applying the requirements of the Investment Management Association's SORP and therefore no training costs will be involved.
- 7.3.6. These changes are unlikely to necessitate a need for training costs either for the auditors of such investment funds or those charged with their administration. No significant changes to record keeping or accounting procedures are anticipated.
- 7.3.7. It is estimated at the changes proposed can be assimilated and applied with a time cost for an individual charity of no more than a day. Assuming an annual salary cost of £50,000 for those involved in such work a daily cost of £200 is assumed. There are thirty-eight charities affected by the proposed changes giving rise to a total one-off compliance cost of £7,600.

7.4. Other costs

- 7.4.1. There are not anticipated to be any other costs.

7.5. Costs for a typical business

- 7.5.1. A typical investment fund charity will see no significant increase in the cost of preparation of its annual reports and accounts. Certain one-off costs will arise primarily from assimilating the changes arising from the new Regulations. These one-off costs are estimated at £200.

8. Consultation with small business: the Small Firms' Impact Test

- 8.1. The Small Business Service has confirmed that it is not thought that the Regulations will have a significant impact on small businesses.

9. Competition Assessment

- 9.1. The competition filter test indicates that the proposed regulations give no competition concerns.

10. Enforcement and sanctions

- 10.1. The Regulations will, if necessary, be enforced under existing provisions of the Charities Act 1993 and will result in no additional enforcement costs.

11. Monitoring and review

- 11.1. The legislation will be monitored on an ongoing basis by the Charity Commission who receive annual reports and accounts from all charities with income of over £10,000 per annum. A full review of the Regulations will take place in 5 years or earlier if there are found to be causes for concern.

12. Consultation

12.1. Within government

- 12.1.1. The Home Office has consulted with the Charity Commission on this matter together with the Department for Trade and Industry and HM Treasury. The Financial Services Authority has also been consulted.

12.2. Public consultation

- 12.2.1. The Regulations were exposed to public consultation between 24 November 2004 and 18 February 2005. The consultation was circulated to 129 organisations and individuals including the fund managers, trustees and auditors of all “commercial” CIFs, a sample of charities that operate “pooling scheme” or “hybrid” CIF arrangements. In addition key charity sector umbrella bodies and professional bodies were included. The consultation was also published on the Home Office web site and highlighted by the Charity Commission in the “Sector News” section of their web site. Responses were received from nine organisations. Two of these responses received were from fund managers each of whom act for a number of “commercial” CIFs.
- 12.2.2. The proposed amendments to the Regulations as far as they affect investment fund charities were not considered likely to raise significant issues as the amendments simply reflected those necessary to bring them in line with accounting and reporting practices already widely adopted by such charities. Of the nine responses received eight were considered supportive of both the need for regulations and the direction proposed.

13. Summary and recommendation

- 13.1. Our clear preference is for option 2. It best meets the objective of providing an accounting and reporting framework relevant to charities’ reporting needs and

creating appropriate accountability to a charity's stakeholders for the resources they control. The proposed Regulations are necessary to maintain a regulatory framework that is in line with current governance and reporting requirements.

15. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Fiona Mactaggart, Parliamentary Undersecretary for Race Equality, Community Policy, and Civil Renewal , Home Office

16. Contact point

Enquiries regarding the contents of this consultation document should be made to:

Helen Morgan
Charities Unit
Home Office
3rd Floor
Allington Towers
19 Allington Street
London SW1E 5EB

Tel: 020 7035 5355
Fax: 020 7035 5386
E-mail: helenc.morgan@homeoffice.gsi.gov.uk

or to:

Ray Jones
Charity Commission for England and Wales
Woodfield House
Tangier
Taunton
Somerset TA1 4BL

Tel: 01823 345096
E-mail: ray.jones@charitycommission.gsi.gov.uk