

## **CTF Bulletin 38** 28 September 2009

This Bulletin tells you about –

- the draft Child Trust Funds (Amendment No. 3) Regulations 2009
- Appendix A – Statutory Instrument

Please note these bulletins do not provide details of HMRC contacts. If you have any questions on the bulletin, you will find details of the person to contact on the email that accompanied this bulletin.

Please ensure the appropriate people in your organisation read this bulletin.

The HMRC website address is [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and there are pages for [CTF providers](#).

### **The draft Child Trust Funds (Amendment No. 3) Regulations 2009**

We propose to make some minor changes to the CTF regulations. The draft statutory instrument is attached.

The changes make:

- it easier for local authorities to give HMRC information about children in their care who may not be eligible for a Child Trust Fund
- it easier for new adoptive parents to take over management of their adopted child's account
- minor changes to the information that CTF providers are required to report, on transfer of a CTF account and also at maturity
- consequential legislative changes, remove obsolete references and update statutory references in the regulations

These regulations are likely to be laid in early in the next session of Parliament, in October or November.

If you have any comments on their drafting or their effect please can you let us have details by 8 October 2009. The provisions that amend providers' reporting requirements are Regulations 11 and 14.

### **Appendix A**

**2009 No.**

**CHILD TRUST FUNDS**

**The Child Trust Funds (Amendment No. 3) Regulations 2009**

<i>Made</i> - - - -	2009
<i>Laid before Parliament</i>	2009
<i>Coming into force</i> - -	2009

The Treasury make the following Regulations in exercise of the powers conferred by sections 3(1), (5) and (7), 7, 13, 15, 16 and 28(1) to (4) of the Child Trust Funds Act 2004<sup>(1)</sup>:

**Citation and commencement**

1. These Regulations may be cited as the Child Trust Funds (Amendment No. 3) Regulations 2009 and shall come into force on [ 2009].

**Amendments to the Child Trust Funds Regulations 2004**

2. The Child Trust Funds Regulations 2004<sup>(2)</sup> are amended as follows.

3.—(1) In regulation 2(1)(b) (interpretation)—

- (a) in the definition of “account” for “relevant European institution” substitute “credit union”;
- (b) in the definition of “deposit-taker” for “section 481(2) of the Taxes Act” substitute “section 853 (as extended under section 854) of ITA 2007”;
- (c) in the definition of “investment trust” omit the words from “, and references” to the end;
- (d) omit the definitions of “the New Collective Investment Schemes Sourcebook” and “relevant European institution”;
- (e) in each of the definitions of “non-UCITS retail scheme” and “qualifying units or shares of a non-UCITS retail scheme”, in paragraph (a), omit “New”;
- (f) for the definition of “relevant authorised person” substitute—  
““relevant authorised person” means a firm mentioned in section 697(2)(b) of ITTOIA 2005”;
- (g) insert at the appropriate places—

““adoption order” has the meaning in section 46(1) of the Adoption and Children Act 2002<sup>(3)</sup> or section 28 of the Adoption and Children (Scotland) Act 2007<sup>(4)</sup> or of “Adoption Order” in Article 2(2) of the Adoption (Northern Ireland) Order 1987<sup>(5)</sup>, as the case may be, and includes an order of a court in the Isle of Man or any of the

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(1)  
(2)  
(3)  
(4) 2007 asp 4.  
(5) 1987 N.I. 22.

Channel Islands which, under section 108 of the Adoption and Children Act 2002, is declared to correspond to an adoption order made under that Act;”

““guardian” means a guardian of a child within the meaning in section 5 of the Children Act 1989<sup>(6)</sup>, section 7 of the Children (Scotland) Act 1995<sup>(7)</sup> or Article 2(2) of the Children (Northern Ireland) Order 1995<sup>(8)</sup>, as the case may be;”

““ITA 2007” means the Income Tax Act 2007;”

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

[““special guardian” has the meaning in section 14A of the Children Act 1989, *DN: appears not to be in force and I have not found any equivalent provisions for Scotland and Northern Ireland*, as the case may be;”].

(2) In regulation 2(1)(c)—

- (a) in the definition of “authorised fund” in paragraph (ii) omit “with variable capital incorporated in the United Kingdom”;
- (b) omit the definitions of “fund of funds scheme”, “money market scheme”, “securities scheme”, “the 1997 Regulations” and “warrant scheme”;
- (c) in the definition of “open-ended investment company” for the words from “, except in” to “1997 Regulations” substitute “means a company to which section 236 of FISMA 2000 applies”;
- (d) omit the definitions of “unit holder”, “unit trust scheme” and “UCITS”;
- (e) in the definition of “umbrella scheme”—
  - (i) in paragraph (i) for the words following “Taxes Act” substitute “and paragraphs (6) and (7) of regulation 7 of the Authorised Investment Funds (Tax) Regulations 2006 shall apply for the purposes of these Regulations as they apply for the purposes of those Regulations”;
  - (ii) in paragraph (ii) [drafting to be completed];
- (f) insert at the appropriate places—
  - ““insolvency event” means the procedures listed in the definition of “insolvency event” in regulation 19(15) of the Payment Services Regulations 2009;”;
  - ““recognised UCITS” means—
    - (a) a collective investment scheme constituted in an EEA State, which is a “recognised scheme” under section 264 of FISMA 2000, and complies with the requirements to be a “UCITS scheme” for the purposes of the Collective Investment Schemes Sourcebook (see in particular COLL 1.2.2), or
    - (b) a part of a recognised UCITS mentioned in paragraph (a) of this definition, which would be a sub-fund of an umbrella scheme which is a recognised UCITS;”;
  - ““UK UCITS” means—
    - (a) a collective investment scheme authorised under section 31(1)(a) of FISMA 2000, which complies with the requirements to be a “UCITS scheme” for the purposes of the Collective Investment Schemes Sourcebook (see in particular COLL 1.2.2), or
    - (b) a part of a UK UCITS mentioned in paragraph 9a) of this definition which would be a sub-fund of an umbrella scheme which is a UK UCITS;”;
  - ““units in, or shares of, a UK UCITS or recognised UCITS” means the rights (however described) of the holders of the units or shares in that UK UCITS or recognised UCITS;”.

4. In regulation 11(1)(general investment rules)—

- (a) in sub-paragraph (a)—

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<sup>(6)</sup>

<sup>(7)</sup>

<sup>(8)</sup> S.I. 1995/755 (N.I. 2).

- (i) for “manager’s price for the sale of the relevant class of units” substitute “maximum sale price of a unit of the relevant class at the relevant valuation point”;
    - (ii) for “rule 15.4.4” substitute “rules 6.3.5 and 6.3.5B”;
  - (b) in sub-paragraph (b)—
    - (i) for “or share” substitute “of the relevant class at the relevant valuation point”;
    - (ii) for “rule 4.3.11” substitute “rules 6.3.5 and 6.3.5A”.
- 5. In regulation 12 (qualifying investments for an account)—**
- (a) in paragraph (2)(b)—
    - (i) after paragraph (i) add “and”;
    - (ii) omit paragraph (iii) and the word “and” which precedes it;
  - (b) in paragraph (2)(f) omit the words from “, in circumstances” to the end;
  - (c) omit paragraph (2)(g) and (h);
  - (d) for paragraph (2)(i) substitute—
    - “(i) units in, or shares of, a UK UCITS or recognised UCITS;”;
  - (e) in paragraph (2)(k) for “section 840A(1)(b) of the Taxes Act” substitute section 991 of ITA 2007”;
  - (f) omit paragraph (6);
  - (g) in paragraph (9)(d)(ii) for “regulation 2(1) of the Personal Portfolio Bonds (Tax) Regulations 1999” substitute “section 516 of ITTOIA 2005”;
  - (h) for paragraph (12)(b)(i) substitute—
    - “(i) the end of the final insurance year in relation to the policy, within the meaning given by section 499 of ITTOIA 2005,”.
- 6. In regulation 13(7) (conditions for application by responsible person to change an account)—**
- (a) after sub-paragraph (d) insert—
    - “(da) where the new registered contact has been appointed to be a guardian [or special guardian] of the named child,
    - (db) where the new registered contact is the adopter of the named child under an adoption order,”;
  - (b) at the end add “, and in the cases in sub-paragraphs (a) to (f) it shall be treated as automatically cancelled”.
- 7. In regulation 14(2) (account provider – qualifications and Board’s approval) in paragraph (e) for the words from “requirement” to the end substitute “limitation or requirement imposed under section 42 or 43 of FISMA 2000, or by any prohibition or prohibition order in or made under that Act”.**
- 8. In regulation 15(2)(a) (account provider - appointment of tax representative) for “sub-section (5) of section 333A of the Taxes Act” substitute “section 698(2)(b) of ITTOIA 2005”.**
- 9. In regulation 16 (account provider – withdrawal by Board of approval) at the end add—**
- “(4) On receiving the notice referred to in paragraph 91), subject to any appeal under section 22(1)(b) of the Act, the account provider shall notify the registered contact (or, if there is no registered contact, the named child) of the right to transfer the account under regulation 21, and of his or her rights under regulation 20(3).”.
- 10. In regulation 20 (account provider ceasing to qualify) —**
- (a) in paragraph (1) for sub-paragraphs (b) to (d) substitute—
    - “(b) there is an insolvency event in relation to the account provider;

- (c) an application has been made for a bank insolvency order or a bank administration order;”;
  - (b) in paragraph (3)(a) after “regulation” insert “16(4) or”.
- 11.** In regulation 21(5)(b) (transfers of accounts to other account providers) at the end add—
- “, and
  - (v) the total amount subscribed to the account during the previous subscription year, where that subscription year ended later than the 5<sup>th</sup> April preceding the date of the transfer.”
- 12.** In regulation 24 (exemption from tax of account income and gains)—
- (a) in sub-paragraph (a)(ii) for “by section 714(2) of the Taxes Act” substitute “under Part 12 of ITA 2007”;
  - (b) for sub-paragraph (a)(iv) substitute—
    - “(iv) on a profit on the disposal of a deeply discounted security within the meaning given by section 430 of ITTOIA 2005;”;
  - (c) in sub-paragraph (a)(v) for “by section 541 of the Taxes Act” substitute “under Chapter 9 of Part 4 of ITTOIA 2005”;
  - (d) in sub-paragraph (c) for “section 349B(4) of the Taxes Act” substitute “section 935 of ITA 2007”;
  - (e) in sub-paragraph (d) for the words from “a corresponding” to “Taxes Act” substitute “a deficiency arising in a tax year and falling within section 539(1) of ITTOIA 2005”.
- 13.** In regulation 25(3) (tax liabilities and reliefs – account provider to act on behalf of the named child) for “paragraph 3 or 4 of Schedule 23A of the Taxes Act” substitute “Chapter 9 of Part 15 of ITA 2007”.
- 14.** In regulation 32 (returns of information by account provider) after paragraph (2) insert—
- “(2A) Where, during the year or part of the year, the named child reaches the age of 18 years or dies, there shall be substituted for paragraph (2)(b)(iii)—
    - “(iii) the aggregate market value of the account investments held under the account immediately before the relevant event mentioned in paragraph (2A),”.
- 15.** For regulation 33(3)(f) substitute—
- “(f) whether the local authority has information that the child is or may be a person subject to immigration control (within the meaning in section 115(9) of the Immigration and Asylum Act 1999), and the nature of that information,”.
- 16.** Omit regulations 34 (Information to be provided to the Board) and 35 (Inspection of records by officer of the Board).
- 17.** In regulation 37(5) (administration of tax in relation to accounts – supplementary)—
- (a) in sub-paragraph (a) for “Chapter 2 of Part 13 of the Taxes Act” substitute “Chapter 9 of Part 4 of ITTOIA 2005”;
  - (b) in sub-paragraph (b) for “that Act” substitute “the Taxes Act”.
- 18.** In regulation 38—
- (a) in the title to the regulation after “Taxes Act” insert “and of Chapter 9 of Part 4 of ITTOIA 2005”;
  - (b) in paragraph (4) for the words from “in whole” to the end substitute” of all rights under the policy for the purposes of section 484(1)(a)(i) of ITTOIA 2005”;
  - (c) for paragraph (5) substitute—
    - “(5) Section 530 of ITTOIA 2005 does not apply to a gain in a case to which paragraph (1) applies.”;

- (d) in each of paragraphs (9) and (10)(a), for “lower” substitute “basic”;
- (e) in paragraph (10)(b) for “section 832(1) of the Taxes Act” substitute “section [10(3)] of ITA 2007”.

*Name*

2009

*Name*

Two of the Lords Commissioners of Her Majesty’s Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*