UK Treasury's Response: Funds Regime Review Call for Input Implications for the Real Estate Funds Sector

Opportunities including the LTAF, QAHC, REIT & PIF

Friday 4th March 2022

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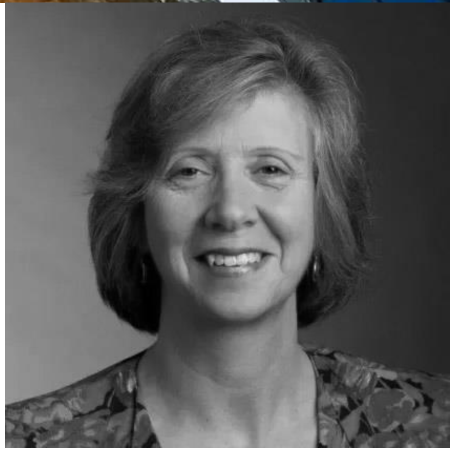
Moderator Welcome

Julie Patterson, Asset Management Lead, Regulatory Change in the EMA FS Regulatory Insight Centre, KPMG



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Agenda for today

10.00	Webinar start
10.00	Welcome and housekeeping - Julie Patterson, KPMG
10.05	Presentation - Peter Capper, IA on the LTAF
	Presentation - Melville Rodrigues, Apex Group on the PIF
	Presentation - Christopher Austin, Schroders on LTAF & PIF tax aspects
	Presentation - Sheelan Shah, Deloitte on REITs & QAHCs
10.35	Panel Discussion and Q&A with speakers
10.55	Closing remarks from Julie Patterson
11.00	Close

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Speakers

Christopher Austin

Head of Tax, Private Assets

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Peter Capper

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The Investment Association

Melville Rodrigues

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Peter Capper

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THE INVESTMENT ASSOCIATION

Long Term Asset Fund (LTAF)
AREF/ INREV/ IPF Update

March 2022

CONTENTS

1. LTAF – Latest developments
2. Final rules
3. Where is the industry?
4. Next Steps

1. LTAF - LATEST DEVELOPMENTS

- FCA PS21/14 issued with final rules on LTAF in November 2021
- Initial focus on DC, though can be marketed under NMPI rules
- Further consultation expected in H1 2022 on broadening distribution to wider retail audience and changes to rules on registration of assets
- Productive Finance Group report issued in September 2021, recommending actions to remove barriers to productive capital
- PFWG recommendations being progressed through cross-industry working groups
- HMT Response to Call for Input on the UK Fund Regime published February 2022, signals continued government support for the LTAF

2. FINAL RULES

- New chapter in COLL (COLL 15) – uses ACS, OEIC and AUT
- Broad principles-based investment powers – prudent spread of risk
- Borrowing limited to 30%, but no look through to underlying assets
- Additional assessment retained
- Minimum redemption terms set – must be no more frequent than monthly, and have notice of at least 90 days.
- Quarterly report of transactions required to investors
- Assets to be registered in the name of the depositary, but FCA commitment to revisit in follow up consultation.
- Provides for master-feeder LTAF arrangements
- Can opt into PAIF rules

3. WHERE IS THE INDUSTRY?

- LTAF product rules well received
- Significant interest in launching LTAFs, particularly for pensions and private wealth
- Managers working through applications

But industry continues to work through challenges:

- Restrictions around marketability to retail investors
- Uncertainty around FCA authorisation – expectations and timelines
- Platform readiness/willingness to host non-daily priced funds and accommodate notice periods
- Registration of ownership

4. NEXT STEPS

- Implementation of Productive Finance Group Recommendations - IA participating
- IA hosting LTAF Implementation Forum for firms actively exploring setting up LTAFs in next 2 years
- IA continues to engage with FCA and other policy makers on retail access for LTAF ahead of 2022 consultation

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Melville Rodrigues

Head of Real Estate Advisory
Apex Group
& Member of the AREF Public Policy Committee

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LOOKING FORWARD TO UK PIFs

Apex Group

Melville Rodrigues

4 March 2022

Welcomed HM Treasury Endorsement: 10 February 2022

The government will…..conduct further work to explore options to include unauthorised contractual schemes in the UK's funds offering

The UK government is persuaded that the PIF would strengthen the UK's funds offering, and has potential to:

- *lower barriers for SME asset managers to launch new products*
- *increase the number of closed-ended investment vehicles domiciled in the UK*
- *support government work to promote investment in longer-term, less liquid assets*

The government is also conscious that professional investors have highlighted the value of the option for an onshore fund structure.

PIF can facilitate levelling-up e.g. conduit for investment in social & affordable housing, regeneration of our town centres, accelerating green industrial revolution.

Industry/Government: constructive engagement and win-win

Gap in UK’s funds offering

- All UK located: underlying RE, managers and investors
- Fund preference: closed-ended/hybrid tax transparent with tradable units
- Restricted choice to:
  - offshore; or
  - onshore, but must be open-ended

Consequences:

- offshore: investor protection, multiple legal, tax and regulatory regimes & operational costs
- open-ended onshore: regulatory operational costs & (albeit LTAF qualification) "liquidity mis-match“

Restricted choice particularly inhibits SME managers

APEX

PIF plugs the gap

- May be: closed-ended, hybrid, 'evergreen' & offer redemption windows
- Modelled on the authorised contractual scheme/ACS: unauthorised CS
- Unconstrained: asset classes and investment strategies
- Effectively tax transparent
- Unlisted & tradable units: trades not inhibited by transaction tax
- Pension funds/other institutional (not retail) investors: £1m minimum commitment
- Full scope UK AIFM & depositary
- PIF deed & notifications to PIF Registry

Flexible and 'speed to market' solution

Balances demand-led concerns from managers, investors, government, regulator & other stakeholders

Quick implementation: secondary legislation

"Our plans to launch funds as PIFs would not be inhibited by the current rules on VAT and fund management fees."

- UK real estate fund managers

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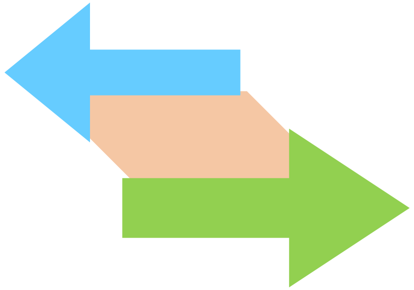
PIF eligible investors: UK examples



LTAFs

DB Pension Funds, professional clients COBS 3.5.2R.

DC Pension Funds

- Trust-based pension funds: trustees are professional clients COBS 3.5.2 R(3)(e), size requirements on AuM and membership.
- However, for trustees that invest via unit-linked life wrappers, which is common in DC schemes, the permitted links rules COBS 21.3 apply. These rules limit the extent that unit-linked funds invest in collective investment vehicles.
- Insured DC pension scheme – the permitted links rules apply

Insurance (both life and general), professional client under COBS 3.5.2 R(1)(d). Note campaign to ease UK Solvency II SCR for real estate *https://realassets.ipe.com/news/uk-solvency-ii-reform-must-ease-real-estate-requirements-and-quickly/10057851.article*

Public sector including local authorities and LGPS

- Can opt up to elective professional status, subject to the qualitative and quantitative opt-up tests in COBS 3.5.3B(R).
- As a result of 2015 LGPS Pools reforms, 5 of 8 Pools are professional clients.

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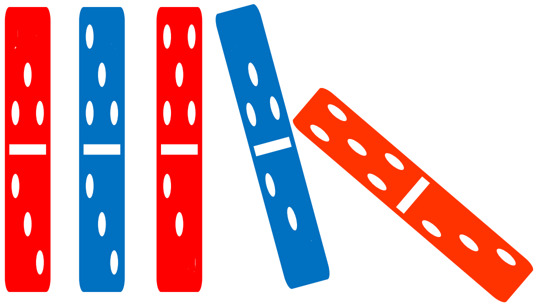
PIF modest – but significant - change

- Demonstrated by latent demand: attractions for both UK managers and investors, especially SMEs
- CoACSs convert to PIFs
- Simplification & more efficient dynamics: for example, re-evaluation of current structures like:
  - UK LPs with EUUT feeder
  - UK LPs with offshore feeder e.g. JPUT/GPUT



- Launch pad scenario: PIFs to ACS LTAF (akin: UK Private REIT to Listed REIT)
- Reaction against EU ATAD 3 e.g. PIF with QAHCs for UK managers
- Onshoring/domestication trend with funds & corporate services
- Sub-threshold AIFMs should consider opting to Full-scope AIFMs. This may result in more demand for depositary services.

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UK PIF next steps: unleash our entrepreneurial DNA

- Continuing constructive engagement with HM Treasury, HMRC and FCA
  - Industry assistance in exploring "*options to include unauthorised contractual schemes in the UK's funds offering*"
  - PIF may be a useful UK fund reform case study: combining industry and government strategic goals including robust anti-tax avoidance provisions & investor protections.

- Regulatory and tax updates: https://melvillerodrigues.com/pif

- Dovetail with plans for industry education & guidance

- **Determination and enthusiasm to deliver soon on the PIF implementing legislation:**

  'Get PIF done'

- My gratitude for – and I am humbled by – the tremendous support including AREF, IA, INREV, IPF, other associations, managers, investors, tax & legal practices, service providers & other stakeholders. Wonderful grassroots dynamics.

Looking forward so much to the PIF journey progressing!

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Christopher Austin

Head of Tax, Private Assets

Schroders

& Chair of the AREF Tax Committee

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Schroders capital

March 2022

LTAF AND PIF

Tax implications

Christopher Austin
Head of Tax, Private Assets

Long Term Asset Fund (LTAF)

Tax aspects

- Any UK authorised fund structure can be an LTAF
- For Real Estate funds typically these include:
  - Property Authorised Investment Funds (PAIFS)
  - Co-ownership Authorised Contractual Schemes (CoACS)
- Must meet the Genuine Diversity of Ownership (GDO test)[1]
- GDO Test is deemed to be met if at least 70% of the investors are ‘relevant investors’:
  - AUTs or OEICS that meet the GDO test
  - Insurance companies (non close) investing for the purpose of long term insurance business
  - Sovereign Wealth Funds
  - Pension schemes (but not SIPPs or SSASs)
- HMT is continuing to assess the case for further tax changes to the tax treatment of LTAFs
- Also considering whether REITs changes may also be applied to PAIFs where applicable (e.g. 10% limit on corporate ownership)

1 Unless prospectus published before 9 December 2021

This is not tax advice

UK Professional Investor Fund

Tax attributes discussed with HM Treasury

Direct Taxes

- Tax transparent for income
- No CGT within the fund
- Simplified capital allowances

Transfer Taxes

- No SDLT on unit dealings
- Seeding relief for in specie contributions

VAT

- Able to register for VAT
- VAT treatment of management fees subject to further consultation (not zero rated)

These tax attributes are based largely on the existing Co-Ownership Authorised Contractual Scheme (CoACS) tax regime

Source: AREF PIF Proposal to HM Government, March 2020. The final design of the scheme depends on the outcome of Government consultation. This is not tax advice

THANK YOU

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Sheelan Shah

Partner, Investment Management Tax

Deloitte

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Tax implications of QAHC and REITs

Sheelan Shah

Contents

1. Qualifying asset holding companies (“QAHCs”)

- Purpose and eligibility
- Key benefits

2. UK REIT regime

- Changes expected from April 2022
- Response from UK Funds Regime Review

Qualifying Asset Holding Companies (QAHCs) – purpose and eligibility

Eligibility conditions:	
▪ Ownership	- at least 70% of investors must be diversely owned funds or certain institutional investors; - up to 30% may be held by ‘bad’ investors; - ‘Relevant interests’ includes rights to profits, assets or voting power
• Activity	- requirement to undertake investment activity - trading activity must be ancillary
• Investment Strategy	- no acquisition of listed shares
• Other requirements	- UK resident, not listed, elected into regime

Qualifying Funds

- Collective Investment Scheme or AIF that is either widely held, or 70%-controlled by “good” investors
- 2 different tests for widely held

Other “good” investors

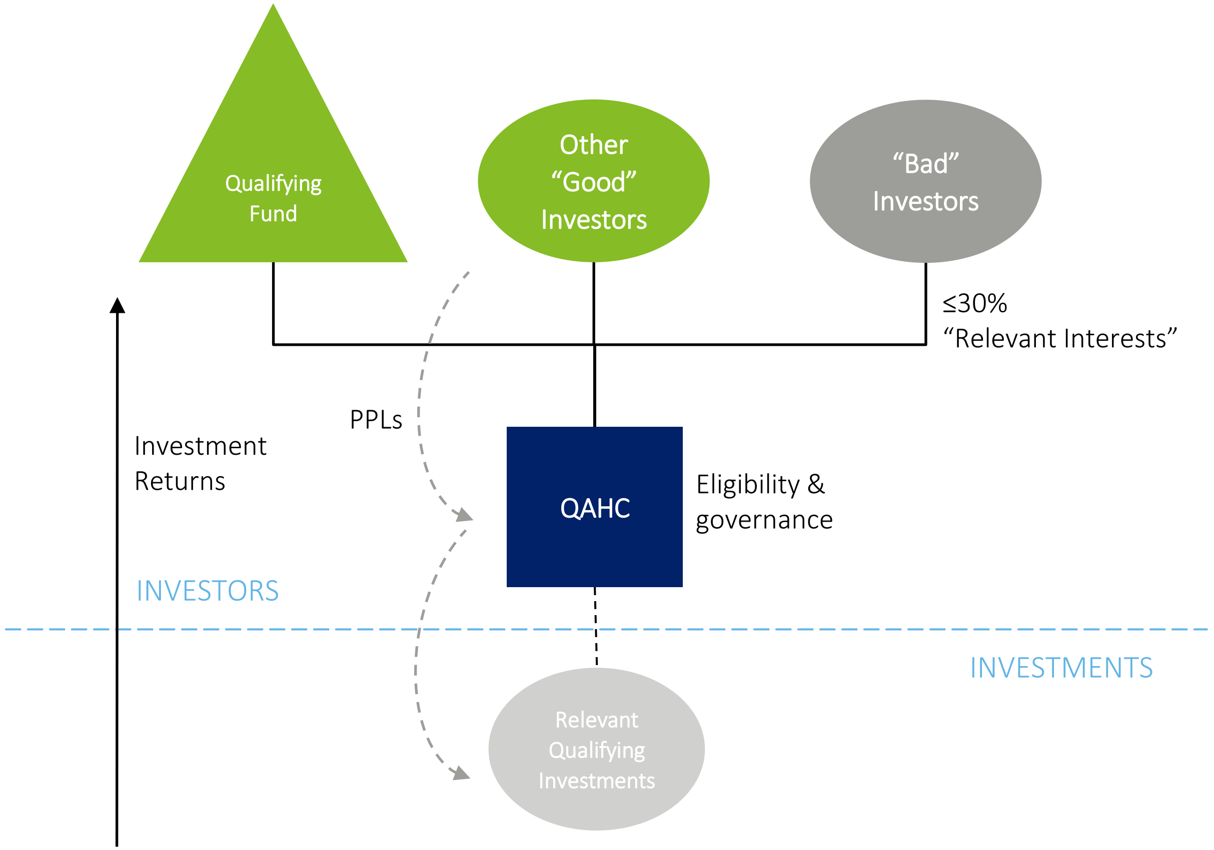
- Pension funds
- Sovereign immune investors
- Certain insurance companies
- UK REITs and non-UK equivalent entities
- Most charities and government authorities
- QAHCs
- Companies wholly-owned by “good” investors

Qualifying Asset Holding Companies (QAHCs) – key benefits

Capital gains exemption on shares
Full exemption except for shares in UK property-rich companies

Non-UK property exemption
Gains and income fully exempt

Share Buy-backs
Exempt from stamp duty and preserved as capital for UK investors



No Withholding Taxes
On interest payments (or dividends, as for all UK companies)

Profit Participating Loans
Interest on PPLs tax deductible, subject to transfer pricing

Dividend income exemptions
As per normal CT rules

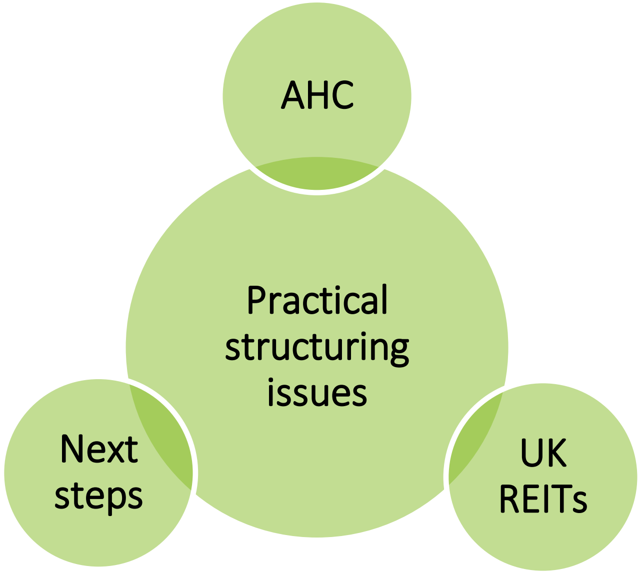
WHT from investment returns and ATAD III
UK fund managers should be able to maintain appropriate substance and operational requirements under new proposed regulations

UK REIT regime – changes from April 2022

- Relaxation of listing requirements for ‘institutional investor REITs’
- Removal of the ‘holder of excessive rights’ charge where PIDs are paid to ‘gross investors’
- Overseas equivalent of a REIT –definition amendment, applicable to the entity itself
- Amendment to 75% profits and assets property rental business test for profits arising due to complying with planning obligations
- A new simplified balance of business test

UK REIT regime – response from the UK Funds Regime Review

- Further options for reform of the UK REIT regime to be considered
- Evaluation stage, no policy decisions as yet
- Varied timetable
- Overlap between REITs and QAHC regime – aim to review these reforms sooner



Panel discussion

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