

Financial Supervision Commission

P.O. Box 58, Finch Hill House, Bucks Road, Douglas, Isle of Man, IM99 IDT

Contact: Hazel Gawne
Our Ref: HG/FMA
Your Ref:
Date: 14/8/06

Dear

Collective Investment Schemes Annual Report and Audited Financial Statements (“the Accounts”)

THIS LETTER REPLACES THE LETTER DATED 30TH JUNE 2006.

The purpose of this letter is to clarify the Commission’s approach in relation to the late issue of Accounts for all types of Collective Investment Schemes managed/administered in the Isle of Man. It also informs you of the introduction of a notification procedure where such Accounts are not going to be issued within an appropriate timeframe (see further below).

During 2005 and earlier this year, the Commission became aware that the number of instances where Collective Investment Schemes were late in issuing their Accounts was increasing.

With the assistance and cooperation of fund administrators and managers, we undertook a full review of the situation to determine not only the position with each fund but, where the accounts were late, the reason.

It emerged that, for the year ended 31 December 2004, 85 Experienced Investor Funds were due to produce Accounts. However, in 48 instances, or 56% of cases, the Accounts were not issued in accordance with the timescales specified in the Offer Document.

The Commission believes it is a matter of paramount importance that the Accounts of Collective Investment Schemes managed or administered in the Isle of Man are issued within an appropriate timeframe (“the Timeframe”). Whilst the Commission also believes the prime responsibility for the production and issue of those accounts within the Timeframe lies with the directors (or equivalent) of the fund, the responsibility for the notification procedure (outlined below) will fall upon the licensed fund manager or administrator.

Isle of Man incorporated funds and funds incorporated outside the Isle of Man which are designated “pure” International, Experienced and Professional Investor Funds

In respect of Isle of Man incorporated funds together with funds incorporated outside the Isle of Man which are designated as “pure” International schemes, Experienced and Professional Investor Funds, the Timeframe should be as specified in the Offering Document of the fund and no later than within six months of the fund’s year end.

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The directors (or equivalent) of a fund should also have regard to the requirements of the relevant Companies Acts for the production of Accounts.

The Commission no longer wishes to receive copies of the Accounts each year, except for the Accounts in relation to “pure” international schemes. However, the Commission may request copies of certain specific fund Accounts as part of its supervisory work, particularly when planning and undertaking on-site compliance visits.

Accounts in relation to Authorised Schemes must of course be submitted in accordance with the Authorised Scheme Regulations.

Notification procedure where the Accounts will be issued late

The Commission believes that the directors (or equivalent) of a fund have a responsibility to the shareholders to make Accounts available to them according to the law of the jurisdiction in which it is incorporated and the terms of the Offer Document and, when this is not possible, to inform them of this fact, the reasons for the delay and a date when they can expect to receive the report.

Where the Timeframe deadline is not met, the Commission will now require the licensed fund administrator or manager to provide the Commission with a notification.

The notification must be provided, in writing, by the licensed manager or administrator within 10 working days of the Timeframe deadline not being met. The notification must, as a minimum:

1. Explain the reason(s) for the delay;
2. Provide a timetable for completion and circulation of the Accounts;
3. Confirm that an appropriate communication has been made to the fund’s shareholders; and,
4. Be copied to the fund’s auditors.

If the delay continues for three months after the date of notification, a further notification must be provided, in writing, by the licensed manager or administrator within 10 working days to the Commission and the shareholders, and repeated every three months until such time as the Accounts have been issued.

Once Accounts are issued that have been the subject of a notification, a final notification must be provided to the Commission in writing, by the licensed manager or administrator within 10 working days of the issue of these Accounts.

The Commission is mindful that licenceholders may wish to refine their existing procedures with regard to the monitoring and administration of the accounts process and, accordingly, the Commission intends to introduce the notification procedure to take effect 1st October 2006.

Qualified Auditors Report

The Commission wishes to be aware of Accounts that are the subject of a qualified audit report. Notification must be provided, in writing, by the licensed manager or administrator within 10 working days of the issue of the Accounts that include such a qualification, together with an explanation of the reasons for the qualification.

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Breach letters

The Commission has already ceased issuing breach letters to the fund administrator / manager in respect of late Accounts for funds that they administer / manage. Instead, it is focusing on situations where:

- The officers of the licensed fund administrator / manager are also directors (or officers) of the fund; and/or,
- It is evident that a particular licenceholder administers / manages a number of funds that are late with their accounts.

The Commission believes that the approach outlined above will provide better focus on the timely production of Accounts for funds and enable it to prioritise where regulatory resources need to be deployed.

Overseas Funds (ie those funds that are incorporated outside the Isle of Man and administered or managed in or from the Isle of Man but which are not designated as a “pure” International Scheme, Experienced Investor Fund or a Professional Investor Fund),

In relation to funds that are administered in the Isle of Man under the “Overseas Fund” regime, (ie those funds that are incorporated outside the Isle of Man and administered or managed in or from the Isle of Man but which are not designated as a “pure” International Scheme, Experienced Investor Fund or a Professional Investor Fund), the Commission recognises that the fund will be subject not only to the timeframes specified in the Offer Document but also to the law and other requirements of the jurisdiction in which it is incorporated with regard to the production and issue of Accounts to shareholders. However, the Commission would expect the Isle of Man licensed administrator or manager to have processes and procedures in place to monitor the progress of the preparation and audit of an Overseas Fund’s Accounts to ensure that they are issued in accordance with the legal requirements and disclosures specified in the Offer Document.

The matters mentioned above in relation to notification procedures, qualified auditors report and breach letters do not apply to funds administered under the Overseas Funds regime.

Yours sincerely

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