

GENERAL SYNOD
CHURCH FUNDS INVESTMENT MEASURE

Explanatory notes

The draft Church Funds Investment Measure provides for the transfer of CBF Church of England Funds to a charity authorised investment fund with the result that those funds, which are currently unregulated, will become regulated funds.

Introduction

1. The factual and policy background to the Measure is set out in the accompanying policy note (GS 2347P).
2. The draft Church Funds Investment Measure (“the Measure”) enables the trustee of a CBF Church of England Fund to transfer its assets to a charity authorised investment fund. The result will be that the CBF Church of England Funds, instead of being unregulated (as is currently the case), will become authorised and regulated jointly by the Financial Conduct Authority and the Charity Commission. Value Added Tax will also cease to be payable on investment managers’ fees, resulting in a cost saving to charity investors.
3. It is not possible for the trustee to achieve the proposed transfer under the Church Funds Investment Measure 1958, hence the need for the draft Measure.

Notes on clauses

Clause 1 Scheme of transfer of assets of certain Church Funds

4. Clause 1 enables the transfer of the CBF Church of England Funds – which are currently unregulated collective investment schemes – to a charity authorised investment fund that is regulated by the Financial Conduct Authority and the Charity Commission.
5. Clause 1(1) empowers the trustee of the CBF Church of England Funds to make a scheme for the transfer of the assets belonging to those funds to a charity authorised investment fund. Such a scheme is usually referred to as a “scheme of arrangement”. It will be for the trustee – CBF Funds Trustee Limited (itself a registered charity) – to decide whether to exercise the power. As trustee, it will be able to exercise the power to transfer a CBF Church of England Fund to a charity authorised investment fund if it considers that doing so is in the interests of the charity investors in the relevant funds (but not otherwise).

6. Clause 1(2) defines a “CBF Church of England Fund” as a fund to which the Church Funds Investment Measure 1958 applies and which is known by one of the following names:

- the CBF Church of England Investment Fund
- the CBF Church of England Fixed Interest Securities Fund
- the CBF Church of England Deposit Fund
- the CBF Church of England Property Fund
- the CBF Church of England UK Equity Fund
- the CBF Church of England Global Equity Income Fund.

These are the funds which will be capable of being transferred by a scheme of arrangement made under clause 1(1).

7. Clause 1(3) enables a scheme of arrangement made under clause 1(1) to include additional provisions to ensure that the scheme has full legal effect and can operate in a practical way. It does that by providing that a scheme of arrangement may contain “supplementary, incidental, consequential, transitional or saving provision”. It provides that a scheme may, in particular, include provision for the dissolution of a fund once its assets have been transferred to the new charity authorised investment fund, the retention of assets from a former fund that are necessary to meet any liabilities that fund may have, and for the payment of fees and expenses (as some costs will be incurred in bringing about the transfer of funds).

8. Clause 1(4) defines “charity authorised investment fund” as meaning a fund which is both an “authorised fund” (i.e. authorised by the Financial Conduct Authority: see clause 1(5)) and which is established under a common investment scheme under section 96 of the Charities Act 2011 (and therefore subject to regulation by the Charity Commission). A fund to which CBF Church of England Funds are transferred must meet this description.

9. Clause 1(5) defines “authorised fund” by reference to relevant provisions of the Financial Services and Markets Act 2000. Those provisions are section 243 (which provides for the authorisation of unit trust schemes), section 261D(1) (which provides for the authorisation of contractual schemes) and section 262 (which provides for certain collective investment schemes to be authorised under regulations). Each type of authorised fund is authorised and regulated by the Financial Conduct Authority.

Clause 2 Short title, commencement and extent

10. Clause 2 provides for the short title of the Measure, its commencement and extent.

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