HMRC - CTM48874 - Funds (Property Aifs): Breach Of The Loan Creditor Condition

See also the information requirements at CTM48877.

Consequences of breaches of the loan creditor condition

Under regulation 69Z6 SI 2006/964 if the Property AIF inadvertently breaches this condition (set out in regulation 69M SI 2006/964 – see CTM48818) but rectifies this within 28 days of discovering the breach no further action will be taken by HMRC.

However, HMRC will issue a termination notice in the following circumstances:

if the manager does not rectify the inadvertent breach within 28 days of first becoming aware of the breach,

if the Property AIF is in breach of this condition through the negligent or intentional actions of the manager,

if there are two breaches of the same condition A, B or C in paragraphs (2) to (5) of the loan creditor condition (regulation 69M SI 2006/964) in three different accounting periods within a 10 year period, beginning on the first day of the accounting period in which the manager becomes aware of the first breach, or

if there are three breaches of any of the conditions A, B or C set out in paragraphs (2) to (5) of the loan creditor condition (regulation 69M SI 2006/964) in three different accounting periods within a 10 year period, beginning on the first day of the accounting period in which the manager becomes aware of the first breach.

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