

Chapter 15

Long-term asset funds

15.1 Introduction

Application

15.1.1

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- (1) This chapter applies to:
 - (a) an *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
 - (b) any other *director* of an *ICVC*;
 - (c) the *depository* of an *AUT*, *ACS* or an *ICVC*; and
 - (d) an *ICVC*,
 which is a *long-term asset fund*.
- (2) Where this chapter refers to *rules* in any other chapter of this sourcebook, those *rules* and any relevant *guidance* should be applied as if they referred to *long-term asset funds*.

Purpose

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- (1) This chapter assists in achieving the *statutory objective* of securing an appropriate degree of protection for *consumers* in respect of *authorised funds* that are only intended for investors that are, in general, prepared to accept a higher degree of risk in their investments or have a higher degree of experience and expertise than investors in a *UCITS scheme* or a *non-UCITS retail scheme*.
- (2) A *long-term asset fund* is essentially a type of *scheme* where different types of permitted asset may be included as part of the *scheme property*, depending on the investment objectives and policy of that *scheme* and within any restrictions in the *rules*. The *FCA* expects the investment strategy of an *LTAf* to be to invest at least 50% of the *scheme property* of an *LTAf* in assets that are illiquid and need to be held over the longer term.
- (3) In comparison to *qualified investor schemes*, *long-term asset funds* have greater flexibility in their investment powers. Therefore, to assist the *FCA* in achieving the *statutory objective* of securing an appropriate degree of protection for *consumers*, this chapter balances this additional flexibility by placing other requirements on the *authorised fund managers* and *depositories* of *LTAfs*.
- (4) This chapter ceases to apply where a *long-term asset fund* has converted to be authorised as a *UCITS scheme*, a *non-UCITS retail scheme* or a *qualified investor scheme*.

Long-term asset funds: eligible investors

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- (1) Subject to (3), the *authorised fund manager* of a *long-term asset fund* must take reasonable care to ensure that ownership of *units* in that *scheme* is recorded in the *register* only for a *person* to whom such *units* may be promoted without contravening the *rules* in ■ COBS 4.12A (Promotion of restricted mass market investments).
- (2) In addition to (1), the *authorised contractual scheme manager* of a *long-term asset fund* which is an ACS must take reasonable care to ensure that ownership of *units* in that *scheme* is only recorded in the *register* for a *person* that meets the criteria set out in ■ COLL 15 Annex 1R (ACS Long-term asset funds: eligible investors).
- (3) The *authorised fund manager* will be regarded as complying with (1) and (2) to the extent that it can show that it was reasonable for it to rely on relevant information provided by another *person*.
- (4) Where:
 - (a) the *scheme* is intended only for *limited protection LTAF investors* or the *scheme* has a *limited protection LTAF class*; and
 - (b) ■ COLL 15.5.-10BR to ■ COLL 15.5.-10EG, ■ COLL 15.5.-12BR, ■ COLL 15.7.-12BR, and ■ COLL 15.8.15EG to ■ COLL 15.8.15PR have not been applied in relation to the *scheme* or the *limited protection LTAF class*,

the *authorised fund manager* must also take reasonable care to ensure that ownership of *units* in the *scheme* or *class* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor*.

Long-term asset funds - explanation

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- (1) *Long-term asset funds* are *authorised funds* which are subject to a restriction on promotion. They are intended only for *professional clients* and for *retail clients* who are sophisticated investors, *certified high net worth investors*, and those *retail clients* to whom *long-term asset funds* may be promoted without contravening the *rules* in ■ COBS 4.12A (Promotion of restricted mass market investments).
- (2) The *authorised contractual scheme manager* of a *long-term asset fund* which is an ACS must take reasonable care to ensure that it accepts subscription to *units* in the *LTAF* only from a *person* to whom such *units* may be promoted without contravening the *rules* in ■ COBS 4.12A (Promotion of restricted mass market investments) and who also meets the criteria in ■ COLL 15 Annex 1R.
- (3) (a) Some of the *rules* in ■ COLL 15 relating to:
 - (i) alterations to *schemes*, notices to *unitholders* and change events for *feeder LTAFs* (see ■ COLL 15.5.-10BR to ■ COLL 15.5.-10DR);
 - (ii) *unitholder* meetings (see ■ COLL 15.5.-12BR);
 - (iii) the *register* (see ■ COLL 15.7.-12BR); and
 - (iv) payments (■ COLL 15.8.15CR to ■ COLL 15.8.15PR),

apply where the *scheme* or (where applicable) a particular *class* of *unit* is made available to *retail clients* who are not *limited protection LTAF investors* (an *LTAF retail class*).

- (b) These *rules* may also be applied to a *scheme* or *class* that is intended only for *limited protection LTAF investors*. Where the *rules* are not applied in relation to such a *scheme* or a *class*, the *authorised fund manager* is required under ■ COLL 15.1.3R(4) to take reasonable care to ensure that ownership of *units* in the *scheme* or *class* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor*.

Application and notification procedures

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Details of the application procedures in respect of *long-term asset funds* are contained in ■ COLL 2.1 (Authorised fund applications). Further information is available on the *FCA* website at www.fca.org.uk/firms/authorised-recognised-funds/apply-fund-authorisation.

15.2 Eligibility to act as the authorised fund manager

Application

- 15.2.1 **R** This section applies to:
- (1) the *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
 - (2) any other *director* of an *ICVC*;
 - (3) the *depository* of an *AUT*, *ACS* or an *ICVC*; and
 - (4) an *ICVC*,
- which is a *long-term asset fund*.

Authorised fund manager to be a full-scope UK AIFM

- 15.2.2 **R** The *authorised fund manager* of a *long-term asset fund* must be a *full-scope UK AIFM*.

- 15.2.3 **G**
- (1) To ensure an appropriate degree of *consumer* protection, only a *full-scope UK AIFM* is able to act as the *authorised fund manager* for an *LTAf*.
 - (2) *Full-scope UK AIFMs* that manage *authorised AIFs* are subject to the requirements of both *COLL* and *FUND*, and must also comply with any other applicable provisions of the *UK AIFM regime*, including the *AIFMD level 2 regulation* and the *AIFMD UK regulation*. *Small authorised UK AIFMs* are subject to a more limited set of *rules* and requirements.

Competence and resources of the authorised fund manager

- 15.2.4 **R**
- (1) The *authorised fund manager* of a *long-term asset fund* must, having regard to the investment objectives, policy and strategy of the *LTAf*:
 - (a) possess the knowledge, skills and experience necessary to understand the activities of the *LTAf* and, in particular, the risks involved in those activities and the assets which the *LTAf* holds (or is to hold) in the *scheme property*; and
 - (b) employ sufficient personnel with the skills, knowledge and expertise necessary for discharging the responsibilities allocated to them.

- (2) The *authorised fund manager* may not rely on a delegation or outsourcing arrangement to satisfy (1).

15.2.5 **R** The *authorised fund manager* of a long-term asset fund must at all times be able to demonstrate to the FCA that it complies with ■ COLL 15.2.4R.

[Note: Article 22 of the AIFMD level 2 regulation.]

Appointment of external valuer or authorised fund manager with knowledge, skills and experience of valuing long-term assets

15.2.6 **R** (1) The *authorised fund manager* of a long-term asset fund must appoint an *external valuer* to perform the valuation function for the LTAf, but this is subject to (2) and (5).

- (2) The *authorised fund manager* need not appoint an *external valuer* under (1) if:

- (a) the *authorised fund manager* possesses the knowledge, skills and experience necessary to be able to carry out a proper and independent valuation of the assets and types of assets which the long-term asset fund holds or is to hold (see ■ FUND 3.9.4R); and
- (b) the *depository* of the long-term asset fund, having made an assessment of the matters in (a), has determined that the *authorised fund manager* has the resources and procedures for carrying out a valuation of those assets in accordance with the applicable law, the *instrument constituting the fund* and ■ FUND 3.9 (Valuation).

- (3) The *depository* must:

- (a) review its determination under (2)(b):
- (i) regularly, and in any event at least annually; and
 - (ii) whenever the *depository* becomes aware of any circumstances which could affect the determination;
- (b) for a period of six years, keep a written record of its determination under (2)(b) and any review under (3)(a), and the reasons for the assessment; and
- (c) provide the FCA with a copy of the written record on request.

- (4) Where the *authorised fund manager* performs the valuation function itself in accordance with (2), the *authorised fund manager* may appoint, as applicable:

- (a) for the purpose of valuing immovables in accordance with ■ COLL 15.6.18R (Investment in property), an *appropriate valuer*;
- (b) for the purpose of valuing immovables in accordance with ■ COLL 15.6.22R (Standing independent valuer and valuation), a *standing independent valuer*;
- (c) for the purpose of valuing an asset other than an immovable or property, a delegate appointed in accordance with ■ FUND 3.10 (Delegation) and the relevant provisions of section 8 (Delegation of AIFM functions) of Chapter III of the AIFMD level 2 regulation.

- (5) The *authorised fund manager* need not appoint an *external valuer* under (1) if:
- (a) the *scheme property* of the *long-term asset fund* is constituted solely of *units* or *shares* in other *collective investment schemes* or *AIFs*; and
 - (b) an *external valuer* performs the valuation function of each such *collective investment scheme* or *AIF*.

[**Note:** ■ FUND 3.9 (Valuation), ■ FUND 3.10 (Delegation), ■ FUND 3.11.25R (Depositary functions: oversight), article 19(5) of *AIFMD*, and articles 67 to 74 (Valuation) and article 94(4) (Duties regarding the valuation of shares/units) of the *AIFMD level 2 regulation*.]

15.2.7 **G** Where an *authorised fund manager* appoints an *external valuer* under ■ COLL 15.2.6R(1) certain additional requirements apply. For example, ■ FUND 3.9.7R(3) (Performance of the valuation function) sets certain conditions relating to the independence of the *external valuer*, and the *authorised fund manager* will also need to be able to demonstrate the matters set out in ■ FUND 3.9.9R (Appointment of external valuer). The *AIFMD level 2 regulation* contains further requirements that apply to the *authorised fund manager* where an *external valuer* is used. Certain requirements also apply to the *external valuer* and the *depositary* of an *LTAf* with an *external valuer*.

[**Note:** Articles 67 to 74 and article 94(4) of the *AIFMD level 2 regulation*.]

15.2.8 **R** The *governing body* of the *authorised fund manager* of a *long-term asset fund* must:

- (1) possess the collective knowledge, skills and experience to be able to understand the *authorised fund manager's* activities, in particular, the main risks involved in those activities and the assets in which the *long-term asset fund* is invested;
- (2) have members that commit sufficient time to properly perform their functions in the *authorised fund manager*; and
- (3) have members that act with honesty, integrity and independence of mind.

[**Note:** Article 21 of the *AIFMD level 2 regulation*.]

15.2.9 **G**

- (1) In order to establish whether an *authorised fund manager* of a *long-term asset fund* conducts its activities honestly, fairly and with due skills, the *FCA* is required to assess various matters, including those set out in articles 21 and 22 of the *AIFMD level 2 regulation*. In addition, under ■ COLL 15.2.4R, the *authorised fund manager* must possess the knowledge, skills and experience necessary to understand the activities of the *LTAf* and, in particular, the risks involved in those activities and the assets which the *LTAf* holds (or is to hold) in the *scheme property* without relying on delegation arrangements to satisfy the requirement.
- (2) The *authorised fund manager* of a *long-term asset fund* is subject to various other requirements relating to its governance arrangements;

its organisational structure; the skills, knowledge, expertise and competence of those it employs; and its obligation to act honestly, fairly and with due skill, care and diligence. See for example the *rules* in ■ SYSC 4 (General organisational requirements), ■ SYSC 5 (Employees, agents and other relevant persons) and ■ COBS 2.1 (Acting honestly, fairly and professionally).

- (3) The *authorised fund manager* of a *long-term asset fund* should also note the organisational requirements set out in the *AIFMD level 2 regulation*; for example, article 57 (General requirements).

15.3 Constitution

Application

- 15.3.1 **R** This section applies to an *authorised fund manager* of a *long-term asset fund*.

Classes of unit

- 15.3.2 **R** A *long-term asset fund* may issue such *classes of unit* as are set out in the *instrument constituting the fund*, provided the rights of any *class* are not unfairly prejudicial as against the interests of the *unitholders* of any other *class of units* in that *scheme*.

Names of schemes, sub-funds, and classes of units

- 15.3.3 **R**
- (1) The *authorised fund manager* must ensure that the name of the *scheme*, a *sub-fund* or a *class of unit* is not undesirable or misleading.
 - (2) The *authorised fund manager* of a *long-term asset fund* must include the term 'long-term asset fund' or 'LTAF' in the name of the *scheme* and in relation to any *sub-fund* which is also a *long-term asset fund*.

Undesirable and misleading names

- 15.3.4 **G**
- (1) ■ COLL 6.9.6G (Undesirable and misleading names) contains *guidance* as to names which may be undesirable or misleading.
 - (2) The term 'Long-Term Asset Fund' or 'LTAF' is reserved for a *long-term asset fund* whose *authorised fund manager* operates, or proposes to operate, it in accordance with the *rules* in this chapter.
 - (3) Only *AIFs* that are authorised in accordance with the *LTIF Regulation* may use the designation 'LTIF' or 'long-term investment fund'.

Instrument constituting the fund

- 15.3.5 **R**
- (1) The statements and provisions required by ■ COLL 15.3.6R must be included in the *instrument constituting the fund* of a *long-term asset fund*.
 - (2) The *instrument constituting the fund* must not contain any provision that conflicts with any applicable *rule*.

15.3.6

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Table: contents of the instrument constituting the fund

This table belongs to ■ COLL 15.3.5R.

1 Description of the authorised fund

Information detailing:

- (1) the name of the *authorised fund*;
- (2) that the *authorised fund* is a *long-term asset fund*;
- (3) in the case of an *ICVC*, whether the head office of the *company* is situated in England and Wales, Wales, Scotland or Northern Ireland.

2 Property Authorised Investment FundsFor a *property authorised investment fund*, a statement that:

- (1) it is a *property authorised investment fund*;
- (2) no *body corporate* may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the *scheme*; and
- (3) in the event that the *authorised fund manager* reasonably considers that a *body corporate* holds more than 10% of the net asset value of the *scheme*, the *authorised fund manager* is entitled to delay any *redemption* or *cancellation* of *units* in accordance with 8 if the *authorised fund manager* reasonably considers such action to be:
 - (a) necessary in order to enable an orderly reduction of the holding to below 10%; and
 - (b) in the interests of the *unitholders* as a whole.

3 Constitution

The following statements:

- (1) the *scheme property* of the *scheme* is entrusted to a *depository* for safekeeping (subject to any exception permitted by the *rules*);
- (2) if relevant, the duration of the *scheme* is limited and, if so, for how long;
- (3) charges and expenses of the *scheme* may be taken out of *scheme property*;
- (4) for an *ICVC*:
 - (a) what the maximum and minimum sizes of the *scheme's* capital are; and
 - (b) the *unitholders* are not liable for the debts of the *company*;
- (5) for an *ICVC* which is an *umbrella*, a statement that the assets of a *sub-fund* belong exclusively to that *sub-fund* and shall not be used to discharge directly or indirectly the liabilities of, or claims against, any other *person* or body, including the *umbrella*, or any other *sub-fund*, and shall not be available for any such purpose;
- (6) for a *co-ownership scheme* which is an *umbrella*, the property subject to a *sub-fund* is beneficially owned by the participants in that *sub-fund* as tenants in common (or, in Scotland, is the common property of the *participants* in that *sub-fund*) and must not be used to discharge any liabilities of, or meet any claims against, any *person* other than the *participants* in that *sub-fund*;
- (7) for a *limited partnership scheme*, that the *scheme* prohibits pooling as is mentioned in section 235(3)(a) of the Act in relation to separate parts of the *scheme property*, with the effect that the *scheme* cannot be an *umbrella*;

- (8) for an *AUT*:
- (a) the *trust deed*:
 - (i) is made under and governed by the law of England and Wales, or the law of Scotland or the law of Northern Ireland;
 - (ii) is binding on each *unitholder* as if that *person* had been a party to it, and that the *unitholder* is bound by its provisions; and
 - (iii) authorises and requires the *trustee* and the *manager* to do the things required or permitted of them by its terms;
 - (b) subject to the provisions of the *trust deed* and all the *rules* made under section 247 of the *Act* (Trust scheme rules):
 - (i) the *scheme property* (other than sums held to the credit of the *distribution account*) is held by the *trustee* on trust for the *unitholders* according to the number of *units* held by each *unitholder* or, where relevant, according to the number of individual shares in the *scheme property* represented by the *units* held by each *unitholder*; and
 - (ii) the sums standing to the credit of any *distribution account* are held by the *trustee* on trust to distribute or apply them in accordance with COLL 15.8.18R (Income);
 - (c) a *unitholder* is not liable to make any further payment after having paid the *price* of the *units* held, and that no further liability can be imposed on the *unitholder* in respect of those *units*; and
 - (d) payments to the *trustee* by way of *remuneration* are authorised to be paid (in whole or in part) out of the *scheme property*; and
- (9) for an *ACS*:
- (a) the *contractual scheme deed*:
 - (i) is made under and governed by the law of England and Wales, or the law of Scotland or the law of Northern Ireland;
 - (ii) is binding on each *unitholder* as if that *person* had been a party to it, and that the *unitholder* is bound by its provisions;
 - (iii) authorises and requires the *depository* and the *authorised contractual scheme manager* to do the things required or permitted of them by its terms; and
 - (iv) states that *units* may not be *issued* to a *person* other than a *person*:
 - (A) who is a:
 - (i) *professional ACS investor*; or
 - (ii) *large ACS investor*; or
 - (iii) *person* who already holds *units* in the *scheme*; and
 - (B) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in COBS 4.12A (Promotion of restricted mass market investments);
 - (v) states that the *authorised contractual scheme manager* of an *ACS* must *redeem units* as soon as practicable after becoming aware that those *units* are vested in anyone

- (whether as a result of subscription or transfer of *units*) other than a *person* meeting the criteria in (iv)(A) and (B);
- (vi) states that for a *co-ownership scheme*:
- (A) the *scheme property* is beneficially owned by the *participants* as tenants in common (or, in Scotland, is the common property of the *participants*);
 - (B) the arrangements constituting the *scheme* are intended to constitute a *co-ownership scheme* as defined in section 235A(2) of the *Act*; and
 - (C) the *operator* and *depository* are required to wind up the *scheme* if directed to do so by the *FCA* in exercise of its power under section 261X (Directions) of the *Act*;
- (vii) states:
- (A) whether the transfer of *units* in the *ACS scheme* or, for a *co-ownership scheme* which is an *umbrella (sub-funds of which pursue differing policies in relation to transfer of units)*, in each particular *sub-fund*, is either:
 - (i) prohibited; or
 - (ii) allowed;
 - (B) where a transfer of *units* is allowed by the *scheme* or, where appropriate the *sub-fund*, in accordance with (A)(ii), *units* may only be transferred in accordance with the conditions specified by *FCA rules*, including that *units* may not be transferred to a *person* other than a *person*:
 - (i) who is a:
 - (1) *professional ACS investor*; or
 - (2) *large ACS investor*; or
 - (3) *person* who already holds *units* in the *scheme*; and
 - (ii) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in COBS 4.12A (Promotion of restricted mass market investments); and
- (viii) states that for a *limited partnership scheme*, the *scheme* is not dissolved on any *person* ceasing to be a *limited partner* or *nominated partner* provided that there remains at least one *limited partner*;
- (b) subject to the provisions of the *contractual scheme deed* and all the *rules* made under section 261I of the *Act* (Contractual scheme rules) and for the time being in force:
- (i) the *scheme property* (other than sums standing to the credit of the *distribution account*) is held by, or to the order of, the *depository* for and on behalf of the *unitholders* according to the number of *units* held by each *unitholder* or, where relevant, according to the number of individual shares in the *scheme property* represented by the *units* held by each *unitholder*; and
 - (ii) the sums standing to the credit of any *distribution account* are held by the *depository* to distribute or apply them in accordance with COLL 15.8.18R (Income); and

- (c) a *unitholder* in a *co-ownership scheme* is not liable to make any further payment after having paid the price of the *units* held, and that no further liability can be imposed on the *unitholder* in respect of those *units*;
- (d) a *unitholder* in a *limited partnership scheme* is not liable for the debts or obligations of the *limited partnership scheme* beyond the amount of the *scheme property* which is available to the *authorised contractual scheme manager* to meet such debts or obligations, provided that the *unitholder* does not take part in the management of the partnership business;
- (e) the exercise of rights conferred on *limited partners* by *FCA rules* does not constitute taking part in the management of the partnership business;
- (f) the *limited partners*, other than the *nominated partner*, are to be the *participants* in the *scheme*; and
- (g) the *operator* of a *co-ownership scheme* is authorised to:
 - (i) acquire, manage and dispose of the *scheme property*; and
 - (ii) enter into contracts which are binding on *unitholders* for the purposes of, or in connection with, the acquisition, management or disposal of *scheme property*.

4 Investment objectives

A statement of the object of the *scheme*, in particular the types of *investments* and assets in which it and each *sub-fund* (where applicable) may invest and that the object of the *scheme* is to invest in property of that kind with the aim of spreading investment risk.

5 Units in the scheme

A statement of:

- (1) the *classes* of *units* which the *scheme* may issue, indicating, for a *scheme* which is an *umbrella*, which *class* or *classes* may be issued in respect of each *sub-fund*; and
- (2) the rights attaching to *units* of each *class* (including any provisions for the expression in two denominations of such rights).

6 Limitation on issue of and redemption of units

- (1) Details as to:
 - (a) the provisions relating to any restrictions on the right to *redeem units* in any *class*; and
 - (b) the circumstances in which the *issue* of the *units* of any particular *class* may be limited.
- (2) A statement setting out the *dealing* frequency for *sales* and *redemptions* of *units* in the *scheme*, and the applicable *notice period* for *redemptions*.
- (3) Where COLL 15.1.3R(4) (Long-term asset funds: eligible investors) applies, a statement that the *authorised fund manager* must take reasonable care to ensure that ownership of *units* in the *scheme* or a relevant *class* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor*.

7 Income and distribution

Details of the *person* responsible for the calculation, transfer, allocation and distribution of income for any *class* of *unit* in *issue* during the accounting period.

8 Redemption or cancellation of units on breach of law or rules

A statement that where any holding of *units* by a *unitholder* is (or is reasonably considered by the *authorised fund manager* to be) an in-

fringement of any law, governmental regulation or rule, those *units* must be *redeemed* or *cancelled*.

9 Base currency

A statement of the *base currency* of the *scheme*.

10 Meetings

Details of the procedures for the convening of meetings and the procedures relating to resolutions, voting and the voting rights for *unitholders*.

11 Powers and duties of the authorised fund manager and depositary

Where relevant, details of any function to be undertaken by the *authorised fund manager* and *depositary* which the *rules* in *COLL* require to be stated in the *instrument constituting the fund*.

12 Termination and suspension

Details of:

- (1) the grounds under which the *authorised fund manager* may initiate a suspension of the *scheme* and any associated procedures; and
- (2) the methodology for determining the rights of *unitholders* to participate in the *scheme property* on winding up.

13 Investment in overseas property through an intermediate holding vehicle

If investment in an overseas immovable is to be made through an *intermediate holding vehicle* or a series of *intermediate holding vehicles*, a statement that the purpose of that *intermediate holding vehicle* or series of *intermediate holding vehicles* will be to enable the holding of overseas immovables by the *scheme*.

14 Other relevant matters

Details of those matters which enable the *scheme*, *authorised fund manager* or *depositary* to obtain any privilege or power conferred by the *rules* in *COLL* which is not otherwise provided for in the *instrument constituting the fund*.

Limited issue

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Units whose *issue* may be limited can only be *issued* if permitted by the *instrument constituting the fund*, under the conditions set out in the *prospectus* and provided that this will not materially prejudice any existing *unitholders* in the *scheme*.

15.4 Prospectus and other pre-sale notifications

Application

15.4.1

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This section applies to:

- (1) the *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*; and
- (2) an *ICVC*,
which is a *long-term asset fund*.

Drawing up and availability of a prospectus

15.4.2

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- (1) An *authorised fund manager* must ensure that a *prospectus* of a *long-term asset fund* is drawn up which contains:
 - (a) the information specified in ■ COLL 15.4.5R (Table: contents of long-term asset fund prospectus);
 - (b) the information for investors required by ■ FUND 3.2.2R and ■ FUND 3.2.3R (Prior disclosure of information to investors); and
 - (c) the information for investors required by ■ FUND 3.2.5R and ■ FUND 3.2.6R (Periodic disclosure), unless the up-to-date information has been published in the *scheme's* most recent annual report or half-yearly report.
- (2) An *authorised fund manager* must:
 - (a) revise the *prospectus* immediately upon the occurrence of any materially significant change in the information required to be stated within it;
 - (b) include the date of any revision in a prominent manner in the revised *prospectus*;
 - (c) send a copy of the original and any revised *prospectus* to the *FCA*; and
 - (d) review the *prospectus* periodically and revise it to take account of any significant change or new matter.
- (3) The *prospectus* must not contain any provision which is unfairly prejudicial to the interests of *unitholders* generally or to the *unitholders* of any *class* of *units*.
- (4) The *authorised fund manager* must ensure that the *prospectus* does not contain any provision that conflicts with any applicable *rule*.

15.4.3

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(5) An *ICVC* or the *authorised fund manager* of an *AUT* or *ACS* must offer a copy of the *scheme's* most recent *prospectus* free of charge to any *person* eligible to invest in a *long-term asset fund*, prior to the purchase of any *units*.

(1) The information specified in ■ COLL 15.4.5R (Table: contents of long-term asset fund prospectus) includes the provisions specified in ■ FUND 3.2.2R(1) to ■ 3.2.2R(12) and ■ 3.2.2R(16), as well as certain additional pieces of information. A 'Note' indicates whether the information is derived from ■ FUND 3.2.2R.

(2) The *authorised fund manager* of an *LTAF* will also need to comply with ■ FUND 3.2.2R by providing investors with the information specified in ■ FUND 3.2.2R(13) to ■ 3.2.2R(15) and ■ 3.2.2R(17).

False or misleading prospectus

15.4.4

R

The *authorised fund manager* must ensure that the *prospectus* does not contain any untrue or misleading statement or omit any matter required by the *rules* in this sourcebook to be included in it.

Table: contents of a long-term asset fund prospectus

15.4.5

R

This table belongs to ■ COLL 15.4.2R.

1 Document status

A statement that this document is the *prospectus* of the *authorised fund* valid as at a particular date which shall be the date of the *document*.

2 Description of the authorised fund

Information detailing:

- (1) the name of the *authorised fund*;
- (2) its *FCA* product reference number (*PRN*);
- (3) that the *authorised fund* is either an *ICVC*, *ACS* or an *AUT*;
- (4) that the *scheme* is a *long-term asset fund*;
- (5) where relevant, that the *shareholders* in an *ICVC* are not liable for the debts of the *authorised fund*;
- (6) where relevant, the address of the *ICVC's* head office and the address in the *United Kingdom* for service on the *ICVC* of documents required or authorised to be served on it;
- (7) the effective date of the *authorisation order* made by the *FCA* and, if the duration of the *authorised fund* is not unlimited, when it will or may terminate;
- (8) the *base currency* for the *authorised fund*;
- (9) where relevant, the maximum and minimum sizes of the *ICVC's* capital;
- (10) for an *ACS* that is a *limited partnership scheme*, the address of the proposed principal place of business of the *limited partnership scheme*; and
- (11) a description of the other main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, the applicable law and the ex

istence or absence of any legal instruments providing for the recognition and enforcement of judgments.

[Note: FUND 3.2.2R(3).]

3 Investment objectives, policy and strategy

The following particulars, which must be set out fairly, clearly and in plain language:

- (1) Information to enable a *unitholder* to ascertain:
 - (a) the investment objectives of the *authorised fund*;
 - (b) the *authorised fund's* investment policy for achieving those investment objectives, including:
 - (i) the general nature of the portfolio and any intended specialisation;
 - (ii) the policy for providing a prudent spread of risk in the *scheme property*; and
 - (iii) the policy in relation to the exercise of powers to borrow cash and use leverage, including:
 - (A) the purposes for which cash borrowing and leverage may be used;
 - (B) the nature of the cash borrowing, including whether it is short- or long-term, temporary or otherwise;
 - (C) the types and sources of leverage permitted and the associated risks;
 - (D) any restrictions on the use of leverage and any *collateral* and asset reuse arrangements;
 - (E) the maximum level of leverage which the *authorised fund manager* is entitled to employ on behalf of the *LTAf*;
 - (F) an explanation of how and why that is compatible with the objectives of the *LTAf*;
 - (c) whether there are any restrictions in the assets which may be held in the *scheme property*; and
 - (d) the extent (if any) to which that investment policy does not envisage remaining fully invested at all times.
- (2) A description of the investment strategy of the *long-term asset fund* which must comply with COLL 15.6.6R (Long-term asset funds: investment strategy).

[Note: FUND 3.2.2R(1)(a), FUND 3.2.2R(1)(f) and FUND 3.2.2R(1)(g) to 3.2.2R(1)(j).]

4 Feeder LTAFs

If the *LTAf* is a *feeder LTAf*:

- (1) the name and (where applicable) the *FCA* product reference number (PRN) of the *qualifying master LTAf*;
- (2) the country or territory where the *qualifying master LTAf* is established; and
- (3) the following details of the *qualifying master LTAf*:
 - (a) its investment objective, policy and strategy, including its risk profile;

- (b) the minimum and (if relevant) maximum investment that the *feeder LTAF* may make in it;
- (c) how copies of its *prospectus* may be obtained;
- (d) how the *unitholders* of the *feeder LTAF* may obtain further information about it; and
- (e) a description of all *remuneration* or reimbursement of costs payable by the *feeder LTAF* by virtue of its investment in *units* of the *qualifying master LTAF*, as well as the aggregate charges of the two *schemes*.

[Note: FUND 3.2.2R(1)(b).]

5 Fund of funds

If the *LTAF* is a *fund of funds*, information on where the underlying *funds* are established.

[Note: FUND 3.2.2R(1)(c).]

6 Assets in which the LTAF may invest

A description of the types of assets in which the *LTAF* may invest, including, where relevant:

- (1) for investment in immovables:
 - (a) the countries or territories in which the *authorised fund* may invest in immovables;
 - (b) the *authorised fund manager's* policy in relation to insuring any immovables which form part of the *scheme property*; and
 - (c) the policy of the *authorised fund manager* in relation to the granting of options over immovables in the *scheme property* and the purchase of options on immovables.
- (2) if intended, whether the *scheme property* may consist of *units* in *collective investment schemes* ("second schemes") which are managed by or operated by the *authorised fund manager* or by one of its *associates* and a statement as to:
 - (a) the basis of the maximum amount of the charges in respect of transactions in a second *scheme*; and
 - (b) the extent to which any such charges will be reimbursed to the *scheme*;
- (3) if intended, whether the *scheme* may enter into *stock lending* arrangements and *repo* contracts and, if so, what procedures will operate and what *collateral* will be required.

[Note: FUND 3.2.2R(1)(d).]

7 Investment techniques and associated risks

At least the following information, which must be set out fairly, clearly and in plain language, about the investment techniques that the *authorised fund manager* may employ and all associated risks, including:

- (1) having regard to the investment strategy of the *long-term asset fund* and the type of assets in which the *scheme* may invest, an explanation of the risks associated with the *scheme* investing in those assets and how those risks might crystallise;
- (2) any other risks for *unitholders* investing in the *long-term asset fund*;
- (3) a description of the tools and arrangements the *authorised fund manager* would propose using, including those required by *rules*, to mitigate the risks referred to in (1) and (2); and

- (4) an explanation of the circumstances in which those tools and arrangements would typically be deployed and the likely consequences for investors.

[Note: FUND 3.2.2R(1)(e).]

8 Procedures to change of strategy or policy

A description of the procedures by which the *authorised fund manager* of the *LTAf* may change its investment objective and policy or its investment strategy, or both.

[Note: FUND 3.2.2R(2).]

9 Classes of units

Information as to:

- (1) the names of the *classes of units* in *issue* or available for issue and the rights attached to them in so far as they vary from the rights attached to other *classes*;
- (2) how *unitholders* may exercise their voting rights and what these are; and
- (3) the circumstances where a mandatory *redemption, cancellation* or conversion of *units* from one *class* to another may be required.

[Note: FUND 3.2.2R(3), (8), (9), (11) and (12).]

10 Identity and duties of the authorised fund manager, depositary, auditor and other service providers, and investors' rights

- (1) The following particulars of the *authorised fund manager*:
 - (a) its name and the nature of its corporate form;
 - (b) the country or territory of its incorporation;
 - (c) the date of its incorporation and if the duration of its corporate status is limited, when that status will or may cease;
 - (d) if it is a *subsidiary*, the name of its ultimate *holding company* and the country or territory in which that *holding company* is incorporated;
 - (e) the address of its registered office, its head office, and, if different, the address of its principal place of business in the *United Kingdom*;
 - (f) the amount of its issued share capital and how much of it is paid up;
 - (g) for an *ICVC*, a summary of the material provisions of the contract between the *ICVC* and the *authorised fund manager* which may be relevant to *unitholders* including provisions (if any) relating to termination, compensation on termination and indemnity;
 - (h) the names of the *directors* of the *authorised fund manager*; and
 - (i) a description of the duties of the *authorised fund manager*.
- (2) Where the *LTAf* is an *ICVC*, other than for the *ACD*:
 - (a) the names and positions in the *ICVC* of the *directors*; and
 - (b) the manner, amount and calculation of the *remuneration* of the *directors*.
- (3) The following particulars of the *depositary*

- (a) its name and the nature of its corporate form;
 - (b) the country or territory of its incorporation;
 - (c) the address of its registered office and the address of its head office if that is different from the address of its registered office;
 - (d) if neither its registered office nor its head office is in the *United Kingdom*, the address of its principal place of business in the *United Kingdom*; and
 - (e) a description of the duties of the *depository*.
- (4) If an *investment adviser* or any other *person* is retained to provide services in connection with the business of the *authorised fund*:
- (a) the name of the *person*;
 - (b) whether or not the *person* is authorised by the *FCA*; and
 - (c) a description of the duties of the *person*.
- (5) The name of the auditor of the *authorised fund* and a description of the duties of the auditor.

[Note: FUND 3.2.2R(4).]

11 Professional liability

A description of how the *authorised fund manager* complies with the requirements referred to in IPRU-INV 11.3.11G (Professional negligence) relating to professional liability risk.

[Note: FUND 3.2.2R(5).]

12 Delegation arrangements

To the extent not covered by (10), a description of:

- (1) any *AIFM management function* delegated by the *authorised fund manager*;
- (2) any safe-keeping function delegated by the *depository*;
- (3) the identity of each delegate appointed under FUND 3.10 (Delegation); and
- (4) any conflicts of interest that may arise from such delegation.

[Note: FUND 3.2.2R(6).]

13 Valuation of scheme property and due diligence

- (1) A statement setting out whether the valuation function is performed by an *external valuer* or the *authorised fund manager* and:
 - (a) where an *external valuer* is used to perform the valuation function, an explanation of how that *person* meets the requirements set out in FUND 3.9.7R(3) (Performance of the valuation function) and the relevant requirements in articles 67 to 74 of the *AIFMD level 2 regulation*, and how the *authorised fund manager* is able to demonstrate the matters specified in FUND 3.9.9R (Appointment of an external valuer) and FUND 3.10.2R(2)(f) (General delegation requirements); or
 - (b) where the *authorised fund manager* performs the valuation function itself, details of the *depository's* determination of the matters referred to in COLL 15.2.6R(2) (Appointment of external valuer or *authorised fund manager* with knowledge, skills and experience of valuing long-term assets).

- 2 A description of the valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing hard-to-value assets, in line with FUND 3.9 (Valuation), and details as to:
- (a) how frequently and at what times of the *day* the *scheme property* will be regularly valued to determine the *price* at which *units* in the *scheme* may be purchased from or *redeemed* by the *authorised fund manager* and a description of any circumstance where the *scheme property* may be specially valued;
 - (b) in relation to each purpose for which the *scheme property* must be valued and each category of asset held in the *scheme property*, the basis on which it will be valued, identifying any codes of good practice used by the *external valuer* (where relevant) or the *authorised fund manager*; and
 - (c) how the *price* of *units* of each *class* will be determined, including a statement that a *forward price* basis is to be applied.
- (3) Details as to:
- (a) the *authorised fund manager's* policies and procedures in relation to the selection and ongoing monitoring of investments (see article 18(2) of the *AIFMD level 2 regulation*);
 - (b) the arrangements for ensuring that investment decisions on behalf of the *long-term asset fund* are carried out in compliance with the objectives and the investment strategy of the *scheme* (see article 18(3) of the *AIFMD level 2 regulation*);
 - (c) how the *authorised fund manager* will carry out due diligence in line with good market practice.

[Note: FUND 3.2.2R(7).]

[Note 2: Articles 67 to 71 of the *AIFMD level 2 regulation* contain detailed requirements relating to the valuation of assets by *full-scope UK AIFMs*. Articles 18 and 19 of the *AIFMD level 2 regulation* also contain detailed requirements relating to the due diligence obligations of *full-scope UK AIFMs*.]

14 Fees, charges and expenses

A description of all fees, charges and expenses, including:

- (1) the maximum amounts directly or indirectly borne by investors;
- (2) the payments that may be made out of the *scheme property* to any *person* whether by way of *remuneration* for services, reimbursement of expense, or charge or other payment and for each category of *remuneration*, expense, charge or payment the following should be specified:
 - (a)
 - (i) the *person* to whom the *remuneration*, charge, expense or payment is payable or made;
 - (ii) what that payment is for;
 - (iii) the current rates or amounts of such *remuneration*, charge, expense or payment;
 - (iv) how the *remuneration*, charge, expense or payment will be calculated;
 - (v) when it will be paid;

- (vi) where a performance fee is taken, whether by the *authorised fund manager* or any other *person* providing services to the *authorised fund manager* or the *long-term asset fund* in relation to the operation of the *scheme*, examples of how the performance fee works in plain English and the maximum it can amount to; and
 - (vii) where donations are to be made to one or more *registered charities* for Sharia compliance purposes from the *income property* of the *scheme* (in this *rule*, 'purification'), in addition to the details required above, the *person* who advises the *authorised fund manager* on the required percentage of the *income property* recognised for purification;
- (b) if notice has been given to *unitholders* of the *authorised fund manager's* intention to:
- (i) introduce a new category of *remuneration* for its services;
 - (ii) increase the basis of any current charge; or
 - (iii) change the basis of the treatment of a payment from the *capital property* set out in COLL 15.8.15JR (Allocation of payments to income or capital) and COLL 15.8.15QR(2) (Payments: limited protection LTAF classes) (as applicable),
- particulars of that introduction or increase and when it will take place; and
- (c) if, in accordance with COLL 15.8.15JR (Allocation of payments to income or capital) and COLL 15.8.15QR(2) (Payments: limited protection LTAF classes) (as applicable), all or part of the *remuneration* or expense are to be treated as a capital charge:
- (i) that fact; and
 - (ii) the basis of the charge which may be so treated; and
- (3) if the *authorised fund manager* makes any charges on *sale* or *redemption* of *units*, details of the charging structure and how notice will be provided to *unitholders* of any increase.

[Note: FUND 3.2.2R(9).]

[Note 2: Annex VI of the onshored Commission Delegated Regulation (EU) 2017/653 laying down regulatory technical standards with regard to the presentation, content, review and revision of *key information documents*, sets out detailed requirements in relation to the costs to be disclosed in a *key information document*.]

15 Fair treatment of investors and investor rights

- (1) A description of how the *authorised fund manager* ensures a fair treatment of investors.
- (2) Whenever an investor obtains preferential treatment or the right to obtain preferential treatment, a description of:
 - (a) that preferential treatment;
 - (b) the type of investors who obtain such preferential treatment; and
 - (c) where relevant, their legal or economic links with the *LTAF* or the *authorised fund manager*.
- (3) A description of the rights of investors.

[Note: FUND 3.2.2R(4), FUND 3.2.2R(10) and FUND 3.2.2R(11).]

16 Dealing

The procedure and conditions for the *issue, sale, redemption* and *cancellation* of *units* or *shares* including details of the following, in fair, clear and plain language, using worked examples to explain how these procedures might apply to *unitholders* in practice:

- (1) the *dealing days* and times in the *dealing day* on which the *authorised fund manager* will receive and determine requests for the *sale* and *redemption* of *units*, including any cut-off point for receiving *redemption* requests before the *authorised fund manager* makes the next *redemption determination* (see COLL 15.8.12R(2)(a) (Dealing: redemption of units));
- (2) the procedures for effecting the *issue* and *cancellation* of *units*;
- (3) the procedures for effecting the *sale* and *redemption* of *units* and the settlement of transactions;
- (4) the steps required to be taken by a *unitholder* in redeeming *units* in the *long-term asset fund* (see COLL 15.8.12R (Dealing: redemption of units)), using worked examples to explain how these arrangements may affect *unitholders* in the *scheme*, including:
 - (a) the *notice period*, and the normal period that *unitholders* will need to wait from the *authorised fund manager* accepting a *unitholder's* instruction to *redeem units* in the *LTAF* to payment of the appropriate proceeds of *redemption* to the *unitholder*;
 - (if applicable) the circumstances and periods where:
 - (i) the execution of a *redemption* request may be deferred;
 - (ii) payment may be deferred; or
 - (iii) a limit on the amount that can be *redeemed* may be applied, and
if so, the effect on the *unitholder* of such a deferral or limit (see COLL 15.8.12R(6) (Dealing: redemption of units));
 - (c) that the notice period may be extended when the *scheme* is suspended in accordance with COLL 15.10.3R (Suspension); and
 - (d) that once the *authorised fund manager* has accepted a *unitholder's* request to *redeem units* in the *LTAF* it is irrevocable and they will not be able to withdraw that request;
- (5) a description of the *LTAF's* liquidity risk management, including how an investor's ability to *redeem units* in the *LTAF* may be affected in exceptional circumstances, and the circumstances in which the *redemption* of *units* may be suspended;
- (6) the *days* and times in the *day* on which recalculation of the *price* will commence;
- (7) details of the minimum number or value of each type of *unit* in the *authorised fund* which:
 - (a) any one *person* may hold; and
 - (b) may be the subject of any one transaction of *sale* or *redemption*;
- (8) the circumstances in which the *authorised fund manager* may arrange for, and the procedure for, a *redemption* of *units* in specie;
- (9) the circumstances in which the further *issue* of *units* in any particular *class* may be limited and the procedures relating to this;

- (10) the circumstances in which direct *issue* or *cancellation* of *units* by the *ICVC* or the *depository* of an *AUT* or *ACS* (as appropriate) may occur and the relevant procedures for such *issues* and *cancellations*;
- (10A) (where COLL 15.1.3R(4) (Long-term asset funds: eligible investors) applies) a statement that the *authorised fund manager* must take reasonable care to ensure that ownership of *units* in the *scheme* or a relevant *class* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor*;
- (11) whether a *unitholder* may effect transfer of title to *units* on the authority of an *electronic communication* and if so the conditions that must be satisfied in order to effect a transfer;
- (12) if the *authorised fund manager* deals as principal in *units* of the *scheme* and holds them for that purpose, a statement of its policy for doing so and, where applicable:
 - (a) a description of when the *authorised fund manager* may retain any profits it earns and absorb any losses it incurs for these activities; and
 - (b) a statement of non-accountability as referred to in COLL 15.8.17G; and
- (13) any other features relating to *dealing* in *units* in the *scheme* which *unitholders* would reasonably expect to be aware of, including (but not limited to):
 - (a) any minimum periods for which *unitholders* must hold *units* in any *class* of the *scheme*;
 - (b) any limits or caps on the number or value of *units* in any *class* that a *unitholder* may *redeem*, whether on one occasion or over a period of time;
 - (c) whether the *scheme* may use side-pockets, and if so the procedures for their use,
 using worked examples to explain the effects or consequences that these features may have on *unitholders* in the *scheme*.

[Note: FUND 3.2.2R(8).]

17 Issue of units in ACSs: eligible investors

- (1) A statement that *units* may not be *issued* to a *person* other than to a *person*:
 - (a) who is a:
 - (i) *professional ACS investor*; or
 - (ii) *large ACS investor*; or
 - (iii) *person* who already holds *units* in the *scheme*; and
 - (b) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in COBS 4.12A (Promotion of restricted mass market investments).
- (2) A statement that the *authorised contractual scheme manager* of an *ACS* must *redeem units* as soon as practicable after becoming aware that those *units* are vested in anyone (whether as a result of subscription or transfer of *units*) other than a *person* meeting the criteria in (1).

[Note: FUND 3.2.2R(12).]

18 Transfer of units in ACSs

- (1) A statement whether the transfer of *units* in the *ACS scheme* is either:

- (a) prohibited; or
 - (b) allowed;
- by the *instrument constituting the fund and prospectus*.
- (2) A statement that where transfer of *units* is allowed by the *instrument constituting the fund and prospectus* in accordance with (1)(b), *units* may only be transferred in accordance with the conditions specified by *FCA rules*, including that *units* may not be transferred to a *person* other than a *person*:
- (a) who is a:
 - (i) *professional ACS investor*; or
 - (ii) *large ACS investor*; or
 - (iii) *person* who already holds *units* in the *scheme*; and
 - (b) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in COBS 4.12A (Promotion of restricted mass market investments).
- (3) For a *co-ownership scheme* which is an *umbrella*, a statement in accordance with (1)(a) or (1)(b) and, where appropriate, a statement in accordance with (2), must also be made for the *sub-funds*. Where individual *sub-funds* have differing policies in relation to transfer of *units*, separate statements are required.

[Note: FUND 3.2.2R(12).]

19 Prime brokerage firms

- (1) The identity of any *prime brokerage firm*.
- (2) A description of any material arrangements of the *LTAf* with its *prime brokerage firm* and the way any conflicts of interest are managed.
- (3) The provision in the contract with the *depository* on the possibility of transfer and reuse of the *scheme property* of the *LTAf*.
- (4) Information about any transfer of liability to the *prime brokerage firm* that may exist.

[Note: FUND 3.2.2R(16).]

20 Distributions and accounting dates

Relevant details of accounting and distribution dates and a description of the procedures:

- (1) for determining and applying income (including how any distributable income is paid); and
- (2) relating to unclaimed distributions.

21 The register of unitholders

Details of the address in the *United Kingdom* where the *register of unitholders* is kept and can be inspected by *unitholders*.

22 Property Authorised Investment Funds

For a *property authorised investment fund*, a statement that:

- (1) it is a *property authorised investment fund*;
- (2) no *body corporate* may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the *scheme*; and
- (3) in the event that the *authorised fund manager* reasonably considers that a *body corporate* holds more than 10% of the net asset value of the *scheme*, the *authorised fund manager* is entitled

to delay any *redemption* or *cancellation* of *units* if the *authorised fund manager* reasonably considers such action to be:

- (a) necessary in order to enable an orderly reduction of the holding to below 10%; and
- (b) in the interests of the *unitholders* as a whole.

23 General information

Details as to:

- (1) when annual and half-yearly reports will be published; and
- (2) the address at which copies of the *instrument constituting the fund*, any amending instrument and the most recent annual reports may be inspected and from which copies may be obtained.

24 Winding up of the LTAF

Information detailing the circumstances in which the *authorised fund* may be wound up under the *rules* in *COLL* and a summary of the procedure for, and the rights of *unitholders* under, such a winding up.

25 Information on the umbrella

In the case of a *scheme* which is an *umbrella*, the following information:

- (1) that a *unitholder* may exchange *units* in one *sub-fund* for *units* in another *sub-fund* and that such an exchange is treated as a *redemption* and *sale*;
- (2) what charges may be made on exchanging *units* in one *sub-fund* for *units* in other *sub-funds*;
- (3) the policy for allocating between *sub-funds* any assets of, or costs, charges and expenses payable out of, the *scheme property* which are not attributable to any particular *sub-fund*;
- (4) in respect of each *sub-fund*, the currency in which the *scheme property* allocated to it will be valued and the *price* of *units* calculated and payments made, if this currency is not the *base currency* of the *umbrella*;
- (5) the circumstances in which a *sub-fund* may be terminated under the *rules* in *COLL* and a summary of the procedures for, and the rights of *unitholders* under, such a termination;
- (6) for an *ICVC* or a *co-ownership scheme*, that:
 - (a) for an *ICVC*, its *sub-funds* are segregated portfolios of assets and, accordingly, the assets of a *sub-fund* belong exclusively to that *sub-fund* and shall not be used to discharge directly or indirectly the liabilities of, or claims against, any other *person* or body, including the *umbrella*, or any other *sub-fund*, and shall not be available for any such purpose;
 - (b) for a *co-ownership scheme*, the property subject to a *sub-fund* is beneficially owned by the *participants* in that *sub-fund* as tenants in common (or, in Scotland, is the common property of the *participants* in that *sub-fund*) and must not be used to discharge any liabilities of, or meet any claims against, any *person* other than the participants in that *sub-fund*; and
 - (c) for an *ICVC* or a *co-ownership scheme*, while the provisions of the *OEIC Regulations*, and section 261P (Segregated liability in relation to umbrella co-ownership schemes) of the *Act* in the case of *co-ownership schemes*, provide for segregated liability between *sub-funds*, the concept of segregated liability is relatively new. Accordingly, where claims are brought by local creditors in foreign courts or under *foreign law con*

tracts, it is not yet known how those foreign courts will react to regulations 11A and 11B of the *OEIC Regulations* or, as the case may be, section 261P of the *Act*; and

- (7) the *FCA* product reference number (PRN) of each *sub-fund*.

26 Application of the prospectus contents to an umbrella

For a *scheme* which is an *umbrella*, information required must be stated:

- (1) in relation to each *sub-fund* where the information for any *sub-fund* differs from that for any other; and
- (2) for the *umbrella* as a whole, but only where the information is relevant to the *umbrella* as a whole.

27 Investment in overseas property through an intermediate holding vehicle

If investment in an overseas immovable is to be made through an *intermediate holding vehicle* or a series of *intermediate holding vehicles*, a statement:

- (1) disclosing the existence of that *intermediate holding vehicle* or series of *intermediate holding vehicles*; and
- (2) confirming that the purpose of that *intermediate holding vehicle* or series of *intermediate holding vehicles* is to enable the holding of overseas immovables by the *scheme*.

28 Information on authorised contractual schemes

A statement that:

- (1) a *unitholder* in a *co-ownership scheme* is not liable to make any further payment after having paid the price of the *units* held and that no further liability can be imposed on the *unitholder* in respect of those *units*;
- (2) a *unitholder* in a *limited partnership scheme* is not liable for the debts or obligations of the *limited partnership scheme* beyond the amount of the *scheme property* which is available to the *authorised contractual scheme manager* to meet such debts or obligations, provided that the *unitholder* does not take part in the management of the partnership business;
- (3) the exercise of rights conferred on *limited partners* by *FCA rules* does not constitute taking part in the management of the partnership business; and
- (4) the *scheme property* of a *co-ownership scheme* is beneficially owned by the *participants* as tenants in common (or, in Scotland, is the common property of the *participants*).

28A Sustainability information

The following information, as appropriate:

- (1) where a *sustainability label* is used in relation to a *scheme*, the information set out at ESG 5.3.3R and ESG 5.3.6R, in accordance with ESG 5.3.2R(1); and
- (2) where a *sustainability label* is not used in relation to a *scheme*, but that *scheme* uses the terms in ESG 4.3.2R(2) under ESG 4.3.2R(1) the information required under ESG 5.3.2R(2).

29 Additional information

Any other material information which is within the knowledge of the *directors* of an *ICVC* or the *authorised fund manager* of an *AUT* or *ACS*, or which the *directors* or *authorised fund manager* would have obtained by the making of reasonable enquiries which investors and their professional advisers would reasonably require, and reasonably ex-

pect to find in the *prospectus*, for the purpose of making an informed judgement about the merits of investing in the *authorised fund* and the extent and characteristics of the risks accepted by participating.

Additional information to be made available on securities financing transactions and total return swaps

15.4.6

G

(1) The *Securities Financing Transactions Regulation* sets out the additional information which an *authorised fund manager* of a *long-term asset fund* must make available to investors before they invest.

■ COLL 4.2.5BUK and ■ COLL 4.2.5CUK copy out the relevant provisions of that regulation.

An *authorised fund manager* of a *long-term asset fund* should publish the information in the *prospectus*.

An *authorised fund manager* of a *long-term asset fund* that does not use *securities financing transactions* or *total return swaps* is not required to include the information in ■ COLL 4.2.5CUK in the *prospectus* or other pre-sale documents.

Preparation of key information document in accordance with the PRIIPs regulation

15.4.7

G

(1) The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).

(2) The requirements of the *PRIIPs Regulation* form part of UK law by virtue of the *EUWA*.

(3) As a result, when a *long-term asset fund* is made available to *retail clients*, the *authorised fund manager* in the *United Kingdom* must comply with the *PRIIPs Regulation* and will need to prepare a *key information document* in accordance with the *PRIIPs Regulation*, in addition to the *prospectus*.

15.5 Annual report and investor relations

Application

15.5.1

R

This section applies to:

- (1) the *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*; and
- (2) an *ICVC*,
which is a *long-term asset fund*.

Report and accounts

15.5.2

R

- (1) The *authorised fund manager* must prepare a report in respect of each *annual accounting period*, *half-yearly accounting period* and *quarterly reporting period*.
- (2) Where the first *annual accounting period* of a *scheme* is less than 12 *months*, a half-yearly report need not be prepared.
- (3) The *authorised fund manager* must:
 - (a) publish the annual report not more than four *months* after the end of each relevant *annual accounting period*;
 - (b) publish the half-yearly report not more than two *months* after the end of each relevant *half-yearly accounting period*; and
 - (c) publish the quarterly report not more than 20 *business days* after the end of each relevant *quarterly reporting period*,
and in each case provide a copy free of charge on request to any *unitholder*.
- (4) The *authorised fund manager* must provide free of charge, on the request of any *person* eligible to invest in the *scheme*, a copy of the latest:
 - (a) annual report and (if more recent) half-yearly report; and
 - (b) quarterly report,
before the conclusion of any *sale* to such a *person*.
- (5) The *authorised fund manager* must provide a copy of each annual, half-yearly and quarterly report to the *FCA*.
- (6) For a *scheme* which is an *umbrella*, any annual report provided under (3) or (4) may be a report prepared under ■ COLL 15.5.3R(3), but the

authorised fund manager must nevertheless provide free of charge the report prepared under ■ COLL 15.5.3R(2) if a *unitholder* or any other *person* eligible to invest in the *scheme* requests it.

Contents of the annual report

15.5.3

R

- (1) An annual report, other than for a *scheme* which is an *umbrella*, must contain:
 - (a) the accounts for the *annual accounting period* prepared in accordance with the requirements of the *SORP*;
 - (b) the report of the *authorised fund manager* in accordance with ■ COLL 15.5.6R (Authorised fund manager's report);
 - (c) comparative information in accordance with ■ COLL 4.5.10R (1A) and ■ (2A) (Comparative information);
 - (d) the report of the *depository* in accordance with ■ COLL 15.5.7R (Report of the depository);
 - (e) the report of the auditor in accordance with ■ COLL 4.5.12R (Report of the auditor);
 - (f) subject to ■ COLL 15.5.3R(1)(g), its *public TCFD product report* or an adequately contextualised and prominent cross-reference and hyperlink to the report's location on the *firm's* website, in accordance with ■ ESG 2.3.1R;
 - (g) where applicable, Part B of its *public product-level sustainability report* or an adequately contextualised and prominent cross-reference and to the report's location on the *firm's* website, in accordance with ■ ESG 5.5.5R; and
 - (h) where applicable, the amounts paid as donations for Sharia compliance purposes and the *registered charities* which received these payments.
- (2) An annual report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:
 - (a) for each *sub-fund*:
 - (i) the accounts required by (1)(a);
 - (ii) the report of the *authorised fund manager* in accordance with ■ COLL 15.5.6R;
 - (iii) comparative information in accordance with ■ COLL 4.5.10R(1A) and ■ (2A);
 - (iv) subject to ■ COLL 15.5.3R(2)(v), its *public TCFD product report* or an adequately contextualised and prominent cross-reference and hyperlink to the report's location on *firm's* website, in accordance with ■ ESG 2.3.1R;
 - (v) where applicable, Part B of its *public product-level sustainability report* or an adequately contextualised and prominent cross-reference and hyperlink to the report's location on the *firm's* website, in accordance with ■ ESG 5.5.5R; and
 - (vi) where applicable, the amounts paid as donations for Sharia compliance purposes and the *registered charities* which received these payments;

- (b) the report of the *depository* in accordance with ■ COLL 15.5.7R; and
 - (c) the report of the auditor in accordance with ■ COLL 4.5.12R.
- (3) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further annual report for any one or more individual *sub-funds* of the *umbrella*, in which case it must contain:
- (a) for the *sub-fund*:
 - (i) the accounts required by (1)(a);
 - (ii) the report of the *authorised fund manager* in accordance with ■ COLL 15.5.6R; and
 - (iii) comparative information in accordance with ■ COLL 4.5.10R(1A) and ■ (2A);
 - (b) the report of the *depository* in accordance with ■ COLL 15.5.7R; and
the report of the auditor in accordance with ■ COLL 4.5.12R.
- (4) The *directors* of an *ICVC* or the *authorised fund manager* of an *AUT* or *ACS* must ensure that the accounts referred to in (1)(a), (2)(a) and (3)(a) give a true and fair view of the net revenue and the net capital gains or losses on the *scheme property* of the *authorised fund* or *sub-fund* for the relevant *annual accounting period*, and of the financial position of the *authorised fund* or *sub-fund* as at the end of that period.
- (5) An annual report of a *long-term asset fund* must also contain a statement setting out a description of the assessment of value required by ■ COLL 15.7.17R including:
- (a) a separate discussion and conclusion for the matters covered in each paragraph of ■ COLL 6.6.21R, and for each other matter that formed part of the assessment, covering the considerations taken into account in the assessment, a summary of its findings and the steps undertaken as part of or as a consequence of the assessment;
 - (b) an explanation for any case in which benefits from economies of scale that were identified in the assessment have not been passed on to *unitholders*;
 - (c) an explanation for any case in which *unitholders* hold *units* in a *class* for which the payments out of *scheme property* in relation to that *class* as set out in the *prospectus* (in this rule, “charges”) are higher than those applying to other *classes* of the same *scheme* with substantially similar rights;
 - (d) the conclusion of the *authorised fund manager’s* assessment of whether the charges are justified in the context of the overall value delivered to the *unitholders* in the *scheme*; and
 - (e) if the assessment has identified that the charges are not justified in the context of the overall value delivered to the *unitholders*, a clear explanation of what action has been or will be taken to address the situation.

- (6) An annual report of a *long-term asset fund* must also contain a statement setting out a description of the assessment required by ■ COLL 15.7.20R (Assessment of investment valuations, due diligence, conflicts of interest and liquidity management), including:
- (a) a separate discussion and conclusion for each of the matters specified in ■ COLL 15.7.21R (Table: minimum considerations – assessment of investment valuations, due diligence, conflicts of interest and liquidity management) and for each other matter that formed part of the assessment;
 - (b) a summary of the assessment's findings and the steps undertaken as part of or as a consequence of the assessment; and
 - (c) the conclusion of the *authorised fund manager's* assessment of how it managed the *LTAF* in the best interests of the *scheme*, its investors and the integrity of the market.

Information to be included in annual reports on securities financing transactions and total return swaps

15.5.4

G

- (1) The *Securities Financing Transactions Regulation* sets out the additional information which an *authorised fund manager* who is a *full-scope UK AIFM* of a *long-term asset fund* must include in the *scheme's* annual report.
- (2) ■ COLL 4.5.8ABUK and ■ COLL 4.5.8ACUK copy out the relevant provisions of that regulation.
- (3) An *authorised fund manager* of a *long-term asset fund* that has not used *securities financing transactions* or *total return swaps* during the relevant *annual accounting period* is not required to include the information in ■ COLL 4.5.8ACUK in its reports.

Contents of the half-yearly report

15.5.5

R

- (1) A half-yearly report on an *authorised fund* or *sub-fund* must contain:
 - (a) the accounts for the *half-yearly accounting period* which must be prepared in accordance with the requirements of the *SORP*;
 - (b) the report of the *authorised fund manager* in accordance with ■ COLL 15.5.6R;
 - (c) subject to ■ COLL 15.5.5R(1)(d) its *public TCFD product report* or an adequately contextualised and prominent cross-reference and hyperlink to the report's location on the *firm's* website, in accordance with ■ ESG 2.3.1R, where the half-yearly report most closely follows the reporting deadline of 30 June, under ■ ESG 2.1.1R(1); and
 - (d) where applicable, Part B of its *public product-level sustainability report* or an adequately contextualised and prominent cross-reference and hyperlink to the report's location on the *firm's* website, in accordance with ■ ESG 5.5.5R, where the half-yearly report is the report that most closely follows the date on which Part B of the *public product-level sustainability report* was published.

- (2) For a *scheme* which is an *umbrella*, the *authorised fund manager* may choose whether the half-yearly report is prepared for the *umbrella* as a whole, or for each individual *sub-fund*, or both.

Authorised fund manager's report

15.5.6

R

The report of the *authorised fund manager* must include:

- (1) a review of the investment activities during the period to which the report relates;
- (2) a portfolio statement prepared in accordance with the requirements of the *SORP*;
- (3) in the case of an *umbrella* which has more than one *sub-fund*, particulars in the form of a table showing, as at the end of the period to which the report relates:
 - (a) for each *sub-fund*, the number of *units* in that *sub-fund* that were held by a second *sub-fund* of that *umbrella*; and
 - (b) the value of each such holding;

or, alternatively, a statement that there were no such holdings as at the end of that period;
- (4) particulars of any fundamental or significant change to the *authorised fund* made since the date of the last report;
- (5) in relation to each *scheme* or *sub-fund* which is a *long-term asset fund*:
 - (a) the amount of any *remuneration*, charge, payment or expense paid out of the *scheme property* during the period to which the report relates;
 - (b) the *person* to whom that amount was paid;
 - (c) what that *remuneration*, charge, payment or expense was for; and
 - (d) how the *remuneration*, charge, payment or expense was calculated; and
- (6) any other information which would enable *unitholders* to make an informed judgement on the development of the activities of the *authorised fund* during the period and the results of those activities as at the end of the period.

Report of the depositary

15.5.7

R

- (1) The *depositary* must make an annual report to *unitholders* which must be included in the annual report.
- (2) The *depositary's* report must contain:
 - (a) a description, which may be in summary form, of the duties of the *depositary* under ■ COLL 15.7.6R and ■ COLL 15.7.7R (Duties of the depositary) and in respect of the safekeeping of the *scheme property*;

- (b) in relation to its oversight and monitoring obligations:
 - (i) a description of the reasonable steps the *depository* has taken to ensure that the *LTAF* has been managed in accordance with each of the matters specified in ■ COLL 15.7.6R(2)(e) (Duties of the depository); and
 - (ii) where an *external valuer* has not been appointed, a statement setting out the *depository's* determination of the matters in ■ COLL 15.2.6R(2)(a) (Appointment of external valuer or authorised fund manager with knowledge, skills and experience of valuing long-term assets); and
- (c) a statement as to whether in any material respect:
 - (i) the *issue, sale, redemption and cancellation* and calculation of the *price of the units* and the application of the *authorised fund's* revenue, have not been carried out in accordance with the *rules* in this sourcebook and, where applicable, the *OEIC Regulations* and the *instrument constituting the fund*; and
 - (ii) the investment and borrowing powers and restrictions applicable to the *authorised fund* have been exceeded.

Signing of the annual and half-yearly reports

15.5.8

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The annual reports in ■ COLL 15.5.3R(1) and ■ (2) and the half-yearly reports in ■ COLL 15.5.5R(1) must:

- (1) in the case of an *ICVC*, if there is:
 - (a) more than one *director*, be approved by the board of *directors* and signed on their behalf by the *ACD* and at least one other *director*; or
 - (b) no *director* other than the *ACD*, be signed by the *ACD*;
- (2) in the case of an *AUT* or *ACS*, if the *authorised fund manager* has:
 - (a) more than one *director*, be signed by at least two *directors* of the *authorised fund manager*; or
 - (b) only one *director*, be signed by the *director* of the *authorised fund manager*.

Quarterly reports

15.5.9

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- (1) A quarterly report must contain details of any transactions executed by, or for or on behalf of, the *long-term asset fund* in the relevant *quarterly reporting period* which have resulted in assets being held in the *LTAF's* *scheme property*, including:
 - (a) the date of each transaction;
 - (b) details of the asset and type of asset which was the subject of the transaction; and
 - (c) an explanation of how the transaction is consistent with the *LTAF's* investment objectives, investment policy and investment strategy.

- (2) A quarterly reporting period for a long-term asset fund must be determined in accordance with (a) to (c).
- (a) Each quarterly reporting period must be three months long.
 - (b) There must be four consecutive quarterly reporting periods in each annual accounting period.
 - (c) The first quarterly reporting period in each annual accounting period must begin when the annual accounting period begins.

Application of the rules on alterations to the scheme and notice to unitholders

- 15.5.-10 **R**
- (1) ■ COLL 15.5.-10BR to ■ COLL 15.5.-10EG apply in relation to an alteration or change where the *scheme* has an *LTAf retail class* and:
- (a) the proposed alteration or change affects only *unitholders* in an *LTAf retail class*; or
 - (b) the proposed alteration or change affects *unitholders* in an *LTAf retail class* and *unitholders* in a *limited protection LTAf class*.
- (2) ■ COLL 15.5.10R to ■ COLL 15.5.11G may be applied in relation to an alteration or change where:
- (a) (i) the *scheme* has an *LTAf retail class*; and
 - (ii) the proposed alteration or change relates only to a *limited protection LTAf class*; or
 - (b) the *scheme* has no *LTAf retail class*.

- 15.5.-10A **G**
- Where ■ COLL 15.5.-10BR to ■ COLL 15.5.-10EG are not applied to a *scheme* or *class* which is intended only for *limited protection LTAf investors*, the *authorised fund manager* is required to take reasonable care to ensure that ownership of *units* in that *scheme* or *class* is recorded in the *register* only for a *person* who is a *limited protection LTAf investor* (see ■ COLL 15.1.3R(4) (Long-term asset funds: eligible investors)).

Alterations to the scheme and notices to unitholders: rules for schemes or classes made available to retail clients who are not limited protection LTAf investors

- 15.5.-10B **R**
- (1) (a) The *authorised fund manager* must, by way of an *extraordinary resolution*, obtain prior approval from the *unitholders* for any proposed change to the *scheme* which, in accordance with (1)(b), is a fundamental change.
- (b) A fundamental change is a change or event which:
- (i) changes the purposes or nature of the *scheme*;
 - (ii) may materially prejudice a *unitholder*;
 - (iii) alters the risk profile of the *scheme*; or
 - (iv) introduces any new type of payment out of the *scheme property*.

- (2) (a) The *authorised fund manager* must give prior written notice to *unitholders* in respect of any proposed change to the operation of a *scheme* that, in accordance with (2)(b), constitutes a significant change.
- (b) A significant change is a change or event which is not fundamental in accordance with (1) but which:
- (i) affects a *unitholder's* ability to exercise their rights in relation to their investment;
 - (ii) would reasonably be expected to cause the *unitholder* to reconsider their participation in the *scheme*;
 - (iii) results in any increased payments out of the *scheme property* to an *authorised fund manager* or any other *director* of an *ICVC* or an *associate* of either; or
 - (iv) materially increases other types of payment out of *scheme property*.
- (3) (a) The *authorised fund manager* must inform *unitholders* in an appropriate manner and timescale of any notifiable changes that are reasonably likely to affect, or have affected, the operation of the *scheme*.
- (b) A notifiable change is a change or event, other than a fundamental change under (1) or a significant change under (2), which a *unitholder* must be made aware of unless the *authorised fund manager* concludes that the change is insignificant.
- (4) Alterations affecting only a particular *sub-fund* or *class* of *units* may be approved in accordance with (1), (2) or (3) for the particular *sub-fund* or *class* of *units*, with the consent of, or, as the case may be, notice to, the relevant *unitholders*.

Alterations to the scheme and notices to unitholders: guidance for schemes or classes made available to retail clients who are not limited protection LTAF investors

15.5.-10C G

- (1) Subject to (2), the *guidance* in ■ COLL 4.3.5G (Guidance on fundamental changes) applies to ■ COLL 15.5.-10BR(1) as if:
- (a) in ■ COLL 4.3.5G(2), the references to ■ COLL 4.3.4R(2)(a) to ■ COLL 4.3.4R(2)(c) were references to ■ COLL 15.5.-10BR(1)(b)(i) to ■ (iii); and
 - (b) in ■ COLL 4.3.5G(2)(a), the reference to ■ COLL 7.6.2R was a reference to that *rule* as applied by ■ COLL 15.10.4R (Schemes of arrangement).
- (2) ■ COLL 4.3.5G(2)(f) (the introduction of *limited redemption arrangements*) does not apply to ■ COLL 15.5.-10BR(1).
- (3) The *guidance* in ■ COLL 4.3.7G (Guidance on significant changes) applies to ■ COLL 15.5.-10BR(2) as if the references to ■ COLL 4.3.6R were references to ■ COLL 15.5.-10BR(2).
- (4) The *guidance* in ■ COLL 4.3.9G (Guidance on notifiable changes) applies to ■ COLL 15.5.-10BR(3) as if the reference to ■ COLL 4.3.8R was a reference to ■ COLL 15.5.-10BR(3).

Change events relating to feeder LTAFs: schemes made available to retail clients who are not limited protection LTAF investors

15.5.-10D **R**

- (1) Where the *authorised fund manager* of a *feeder LTAF* is notified of any change in respect of its *qualifying master LTAF* which has the effect of a change to the *feeder LTAF*, the *authorised fund manager* must:
 - (a) classify it as a fundamental change, significant change or a notifiable change to the *feeder LTAF* in accordance with ■ COLL 15.5.-10BR; and
 - (b)
 - (i) for a fundamental change, obtain approval from the *unitholders* by way of an *extraordinary resolution*;
 - (ii) for a significant change, give written notice to *unitholders* of that change; or
 - (iii) for a notifiable change, comply with ■ COLL 15.5.-10BR(3).
- (2) The actions required by (1)(b)(i) and (1)(b)(ii) must be carried out as soon as reasonably practicable after the *authorised fund manager* of the *feeder LTAF* has been informed of the relevant change to the *qualifying master LTAF*.

15.5.-10E **G**

- (1) The *authorised fund manager* of the *feeder LTAF* should assess the change to the *qualifying master LTAF* in terms of its impact on the *feeder LTAF*. For example, a change to the investment objective and policy of the *qualifying master LTAF* that alters its risk profile would constitute a fundamental change for the *feeder LTAF*.
- (2) In order for the *feeder LTAF* to continue investing in the *qualifying master LTAF*, the *authorised fund manager* of the *feeder LTAF* should obtain the approval of *unitholders* by way of an *extraordinary resolution*, or else make a proposal to invest in a different *qualifying master LTAF*. This should be done in accordance with ■ COLL 15.9 (Operational requirements for feeder LTAFs).
- (3) Not all changes affecting the *qualifying master LTAF* will have the same significance for the *feeder LTAF* and its *unitholders*. For example, a change to how the prices of the *units* in the *qualifying master LTAF* are published might not be a significant change for the *feeder LTAF* if the prices of its own *units* continue to be published in the same way.
- (4) Where the *authorised fund manager* of the *feeder LTAF* receives insufficient notice of the intended change to the *qualifying master LTAF* to be able to seek the prior approval of *unitholders* to any fundamental change or to inform them at least 60 days in advance of any significant change, it should nevertheless use reasonable endeavours to inform them of the change as soon as possible so that they can make an informed judgement about the merits of continuing to invest in the *feeder LTAF*.

Alterations to the scheme and notices to unitholders: rules for schemes or classes intended only for limited protection LTAF investors

- 15.5.10 **R**
- (1) Any proposed change which would be reasonably considered to be a fundamental change to the *scheme* requires the prior sanction of an *extraordinary resolution* of the *unitholders*.
 - (2) Any proposed change to the scheme which is not within (1) but which would be reasonably considered to be significant, requires the giving of reasonable notice to *unitholders* to become effective.
 - (3) Alterations affecting only a particular *sub-fund* or *class* of *units* may be approved in accordance with (1) or (2) for the particular *sub-fund* or *class* of *units*, with the consent of, or, as the case may be, notice to, the relevant *unitholders*.
 - (4) This *rule* and **COLL 15.5.12R** (Meetings) will apply (unless the context requires otherwise) to alterations concerning *unitholders* of a particular *sub-fund* or class of *units* rather than the *scheme* or *sub-fund* as a whole.

Alterations to the scheme and notices to unitholders: guidance for schemes or classes intended only for limited protection LTAF investors

- 15.5.11 **G**
- Although account should be taken of the *guidance* on fundamental changes (**COLL 4.3.5G** (Guidance on fundamental changes)) and significant changes (**COLL 4.3.7G** (Guidance on significant changes)) the impact of any change to the *scheme* should be assessed individually based on the nature of the *scheme* and its investor profile.

Application of rules on meetings of unitholders and service of notices

- 15.5.-12 **R**
- (1) **COLL 15.5.-12BR** applies in relation to a meeting of *unitholders* where the *scheme* has an *LTAF retail class* and either:
 - (a) the meeting is only for *unitholders* with *units* in an *LTAF retail class*; or
 - (b) the meeting is for *unitholders* with *units* in an *LTAF retail class* and a *limited protection LTAF class*.
 - (2) **COLL 15.5.12R** may be applied in relation to a meeting of *unitholders* where:
 - (a) (i) the *scheme* has an *LTAF retail class*; and
 - (ii) the meeting is only for *unitholders* in a *limited protection LTAF class*; or
 - (b) the *scheme* has no *LTAF retail class*.

- 15.5.-12A **G**
- Where **COLL 15.5.-12BR** is not applied to a *scheme* or *class* which is intended only for *limited protection LTAF investors*, the *authorised fund manager* is required to take reasonable care to ensure that ownership of *units* in that *scheme* or *class* is recorded in the *register* only for a *person* who is a *limited*

protection LTAF investor (see ■ COLL 15.1.3R(4) (Long-term asset funds: eligible investors)).

Meetings of unitholders and service of notices: schemes or classes made available to retail clients who are not limited protection LTAF investors

15.5.-12B **R**

- (1) The provisions of ■ COLL 4.4 (Meetings of unitholders and service of notices) apply to an *authorised fund manager*, any other *director* of an *ICVC* and a *depository* of a *long-term asset fund*.
- (2) The *authorised fund manager* must record and keep minutes for 6 years of all proceedings to which ■ COLL 15.5.-10BR (Alterations to the scheme and notices to unitholders: schemes with unitholders who are not limited protection LTAF investors) and this *rule* are relevant.

Meetings of unitholders and service of notices: rules for schemes or classes intended only for limited protection LTAF investors

15.5.12 **R**

- (1) Details of the procedures for the convening and conducting of meetings and resolutions must be set out in the *instrument constituting the fund* and be reasonable and fair as between all relevant parties.
- (2) The *authorised fund manager* must record and keep minutes for six years of all proceedings to which ■ COLL 15.5.10R (Alterations to the scheme and notices to unitholders) and this *rule* are relevant.
- (3) The provisions in ■ COLL 4.4.12R (Notices to unitholders), ■ COLL 4.4.13R (Other notices) and ■ COLL 4.4.14G (References to writing and electronic documents) apply in relation to *long-term asset funds*.

15.6 Investment and borrowing powers

Application

15.6.1

R

This section applies to:

- (1) the *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
- (2) the *depository* of an *AUT*, *ACS* or an *ICVC*; and
- (3) an *ICVC*,
which is a *long-term asset fund*.

15.6.2

R

- (1) Where this section refers to a second *scheme*, and the second *scheme* is a feeder *scheme*, which (in respect of investment in *units* in *collective investment schemes*) is *dedicated* to *units* in a single *collective investment scheme*, the reference in this section to the second *scheme* must be read as if it were a reference to the feeder *scheme's* master *scheme*.
- (2) Where this section refers to a second *scheme*, and the second *scheme* is a master *scheme* to which (in respect of investment in *units* in *collective investment schemes*) the relevant *long-term asset fund* is *dedicated*, the reference in this section to the second *scheme* must be read as if it were a reference to any *scheme* into which that master *scheme* invests.

Prudent spread of risk

15.6.3

R

An *authorised fund manager* must ensure that, taking account of the investment objectives, policy and strategy of the *long-term asset fund* as stated in its most recently published *prospectus*, the *scheme property* of the *long-term asset fund* aims to provide a prudent spread of risk.

15.6.4

G

For the purpose of ■ COLL 15.6.3R, an *authorised fund manager* should consider the risks to which the *LTAF* is exposed, including:

- (1) whether the assets or *investments* held in the *scheme property* provide a sufficient diversification of exposure including, for example, in respect of the underlying assets or *investments* held by any holding company or other *collective investment scheme*;

- (2) the spread of any other risks arising from the assets or *investments* held in the *scheme property* of the *LTAF* such as *market risks*, *credit risks*, *liquidity risks* and *counterparty risks*.

[**Note:** Article 44 of the *AIFMD level 2 regulation*.]

Investment powers: general

- 15.6.5 **R**
- (1) The *scheme property* of a *long-term asset fund* may, subject to the *rules* in this chapter, comprise any assets or *investments* to which it is *dedicated*.
- (2) The *instrument constituting the fund* and the *prospectus* may further restrict:
- (a) the kinds of assets in which the *scheme property* may be invested;
 - (b) the types of transactions permitted and any relevant limits; and
 - (c) the borrowing powers of the *scheme*.

Long-term asset funds: investment strategy

- 15.6.6 **R** The investment strategy of a *long-term asset fund* must be to invest mainly in long-term illiquid assets.

- 15.6.7 **G** The *FCA* expects the investment strategy of a *long-term asset fund* to be to invest at least 50% of the value of the *scheme property* in unlisted *securities* and other long-term assets such as interests in immovables or other *collective investment schemes* investing in such *securities* or long-term assets. However, a *long-term asset fund* could have a strategy of investing mainly in a mix of unlisted assets and listed but illiquid assets.

Long-term asset funds: general

- 15.6.8 **R** The *scheme property* of a *long-term asset fund* must, except where otherwise provided by the *rules* in this chapter, consist only of one or more of the following to which it is *dedicated*:
- (1) any *specified investment*:
 - (a) within articles 74 to 86 of the *Regulated Activities Order*;
 - (b) within article 89 (Rights to or interests in investments) of the *Regulated Activities Order* where the right or interest relates to a specified investment within (a);
 - (2) (to the extent not within (a)) an interest in a loan, provided that the loan was not originated to:
 - (a) a natural person;
 - (b) the *authorised fund manager* of the *long-term asset fund*;
 - (c) the *depository* of the *long-term asset fund*;
 - (d) an *affiliated company* of the person in (b) or (c); or
 - (e) a person who intends to use, or uses, the credit for the purpose of investing in a *derivative*, *cryptoasset derivative*, an *unregulated*

transferable cryptoasset, precious metals or a commodity contract within (5);

- (3) an interest in an immovable under ■ COLL 15.6.18R (Investment in property);
- (4) *precious metals*; or
- (5) a *commodity contract* traded on an *RIE* or a *recognised overseas investment exchange*.

[**Note:** *Full-scope UK AIFMs* are subject to specific requirements relating to conflicts of interest (see articles 30 to 36 in the *AIFMD level 2 regulation* and ■ SYSC 10.1.23R to ■ SYSC 10.1.26R (Additional requirements for an AIFM)).]

[**Note 2:** In relation to (2), a borrower who receives *money* by way of *deposit* from a *person* who is not a *bank* may (if the borrower is acting by way of business) be carrying on the *regulated activity of accepting deposits*, but an exclusion in the *Regulated Activities Order* may be available. See also article 2 of the *Business Order*.]

Investment in collective investment schemes

15.6.9

R

- (1) Subject to (2) and (3) (where applicable), a *long-term asset fund* may invest in *units* in a *scheme* (a '*second scheme*') only if the *second scheme* is:
 - (a) a *regulated collective investment scheme*; or
 - (b) a *scheme* not within (a) where the *authorised fund manager* has taken reasonable care to determine that:
 - (i) it is the subject of an independent annual audit conducted in accordance with international standards on auditing;
 - (ii) the calculation of the net asset value of each of the *second schemes* and the maintenance of their accounting records is segregated from the investment management function; and
 - (iii) it (and any *master scheme* to whose *units* it is *dedicated*) is prohibited from investing in the *long-term asset fund*, or, if there is no such prohibition, the *authorised fund manager* is satisfied, on reasonable grounds and after making all reasonable enquiries, that no such investment will be made by either the *second scheme* or any *fund* in which the *second scheme* invests.
- (2) A *long-term asset fund* must not invest more than 20% in value of the *scheme property* in *units* in *second schemes* which are *unregulated schemes, qualified investor schemes or long-term asset funds* unless the *authorised fund manager* has carried out appropriate due diligence on each of the *second schemes* and has taken reasonable care to determine that, after making all reasonable enquiries and on reasonable grounds, the *second scheme* complies with relevant legal and regulatory requirements.
- (3) The *authorised fund manager* of a *long-term asset fund* with more than 20% in value of the *scheme property* invested in one or more *second schemes* which are *unregulated schemes, qualified investor schemes or long-term asset funds* must carry out appropriate due diligence on those *schemes* on an ongoing basis.

- 15.6.10 **G**
- (1) The *authorised fund manager* of a long-term asset fund carrying out due diligence for the purpose of ■ COLL 15.6.9R should use reasonable efforts to make enquiries and obtain the information needed to be able to consider the matters specified in ■ COLL 5.7.11G(1) to (12), as if that *guidance* related to ■ COLL 15.6.9R.
 - (2) Where ■ COLL 5.7.11G(10) refers to ■ COLL 6.3 (Valuation and pricing), that reference should be read as if it were a reference to ■ COLL 15.8.2R (Valuation, pricing and dealing).
 - (3) In addition to the *guidance* at ■ COLL 5.7.11G the *authorised fund manager* should, as part of its due diligence process, consider whether the property of each of the second *schemes* is held in safekeeping by a third party, which is subject to prudential regulation and independent of the investment manager of the second *scheme* and, if not, what controls over the property of the second *scheme* are in place to protect investors.
 - (4) Further specific requirements relating to due diligence apply to the *authorised fund manager* of a long-term asset fund under the rules in this chapter and in articles 18 to 20 of the AIFMD level 2 regulation.

Investment in a collective investment scheme that is an umbrella

- 15.6.11 **R** Where the second *scheme* in ■ COLL 15.6.9R is an *umbrella*, the provisions apply to each *sub-fund* as if it were a separate *scheme*.

Delivery of property under a transaction in derivatives or a commodities contract

- 15.6.12 **R**
- (1) An *authorised fund manager* must take reasonable care to determine the following when entering into any transaction in *derivatives* or any *commodity* contract which may result in any asset becoming part of the *scheme property*:
 - (a) if it is an asset in which the *scheme property* could be invested, that the transaction:
 - (i) can be readily closed out; or
 - (ii) would at the expected time of delivery relate to an asset which could be included in the *scheme property* under the rules in this chapter; or
 - (b) in any other case, that the transaction can be readily closed out.
 - (2) An *authorised fund manager* may acquire an asset within (1) if its determination has proved incorrect and if it determines that acquisition is in the interests of the *unitholders*, provided it has the consent of the *depository*.
 - (3) Any asset within (1) acquired in accordance with (2) may form part of the *scheme property* despite any other rule in this chapter until the position can be rectified.

Cover for transactions in derivatives and forward transactions

- 15.6.13 **R**
- (1) A transaction in *derivatives* or a forward transaction may be entered into only if the maximum exposure, in terms of the *principal* or *notional principal* created by the transaction to which the *scheme* is or may be committed by another *person*, is covered globally under (2).
 - (2) Exposure is globally covered if adequate cover from within the *scheme property* is available to meet the *scheme's* total exposure taking into account any reasonably foreseeable market movement.
 - (3) The total exposure relating to *derivatives* held in a *long-term asset fund* may not exceed the net value of the *scheme property*.
 - (4) No element of cover may be used more than once.

Valuation of an OTC derivative

- 15.6.14 **R**
- A transaction in an *OTC derivative* must be capable of valuation which it will only be if the *authorised fund manager* having taken reasonable care determines that, throughout the life of the *derivative* (if the transaction is entered into), it will be able to value the *investment* concerned with reasonable accuracy:
- (1) on the basis of the pricing model; or
 - (2) on some other reliable basis reflecting an up-to-date market value, which has been agreed between the *authorised fund manager* and the *depository*.

Continuing nature of limits and requirements

- 15.6.15 **R**
- (1) An *authorised fund manager* must, as frequently as necessary to ensure compliance with ■ COLL 15.6.13R(2) and ■ COLL 15.6.13R(4), recalculate the amount of cover required in respect of *derivatives* and forward transactions in existence under this chapter.
 - (2) *Derivatives* and forward transactions may be retained in the *scheme property* only so long as they remain covered globally under ■ COLL 15.6.13R.
 - (3) An *authorised fund manager* must use a risk management process enabling it to monitor and measure as frequently as appropriate the risk of a *scheme's derivatives* positions and their contribution to the overall risk profile of the *scheme*.

Permitted stock lending

- 15.6.16 **R**
- (1) The *ICVC*, or the *depository* at the request of the *ICVC*, or the *depository* of an *AUT* or *ACS* at the request of the *authorised fund manager*, may enter into a *repo* contract or a *stock lending arrangement* within section 263B of the Taxation of Chargeable Gains Act 1992 (without extension by section 263C).

- (2) The *depository* must ensure that the value of any *collateral* for the *stock lending arrangement* is at all times at least equal to the value of the securities transferred by the *depository*.
- (3) In the case of the expiry of validity of any *collateral*, the duty in (2) is satisfied if the *depository* or the *authorised fund manager*, as appropriate, takes reasonable care to determine that sufficient *collateral* will be transferred by close of business on the *day* of expiry.

General power to borrow

15.6.17

R

- (1) The *ICVC* or *depository* of an *AUT* or *ACS* (on the instructions of the *authorised fund manager*) may borrow money for the use of the *authorised fund* on terms that the borrowing is to be repayable out of the *scheme property*.
- (2) The *authorised fund manager* must ensure that the *authorised fund's* borrowing does not, on any *day*, exceed 30% of the net value of the *scheme property* and must take reasonable care to ensure that arrangements are in place that will enable borrowings to be closed out to ensure such compliance.
- (3) In this *rule* "borrowing" also includes any arrangement (including a combination of *derivatives*) designed to achieve a temporary injection of money into the *scheme property* in the expectation that the sum will be repaid.
- (4) Where the limit in (2) is breached, the *authorised fund manager* must take action in accordance with the principles set out in ■ COLL 15.7.3R(3) to ■ COLL 15.7.3R(5) (Duties of the *authorised fund manager*: investment and borrowing powers) to deal with that breach.

Investment in property

15.6.18

R

- (1) Any investment in land or a building held within the *scheme property* of a *long-term asset fund* must be in an immovable within (2).
- (2) For an immovable:
 - (a) it must be situated in a country or territory identified in the *prospectus*;
 - (b) the *authorised fund manager* must have taken reasonable care to determine that the title to the interest in the immovable is a good marketable title; and
 - (c) the *authorised fund manager* of an *AUT* or *ACS* or the *ICVC* must have received a report from an *appropriate valuer* that:
 - (i) contains a valuation of the interest in the immovable (with and without any relevant existing mortgage); and
 - (ii) states that in the *appropriate valuer's* opinion the interest in the immovable would, if acquired by the *scheme*, be capable of being disposed of reasonably quickly at that valuation;
 - (d) unless (c) is satisfied, the *authorised fund manager* of an *AUT* or *ACS* or the *ICVC* must have received a report from an *appropriate valuer* valuing the interest in the immovable and stating that:

- (i) the immovable is adjacent to or in the vicinity of another immovable included in the *scheme property*; and
 - (ii) in the opinion of the *appropriate valuer*, the total value of the interests in both immovables would at least equal the sum of the price payable for the interest in the immovable and the existing value of the interest in the other immovable; and
- (2) it must not be bought:
- (e) if it becomes apparent to the *authorised fund manager* that the report in either (c) or (d) could no longer reasonably be relied upon; or
 - (e) at a price more than 105% of the valuation relevant to the interest for that immovable in the report in either (c) or (d).
- (3) Any contents of any building may be regarded as part of the relevant immovable.
- (4) An *appropriate valuer* must be a person who:
- (a) has knowledge of and experience in the valuation of immovables of the relevant kind in the relevant area;
 - (b) is qualified to be a *standing independent valuer* of an *authorised fund* or is considered by the *scheme's standing independent valuer* to hold an equivalent qualification;
 - (c) is independent of the *ICVC*, the *depository* and each of the *directors* of the *ICVC* or of the *authorised fund manager* and *depository* of the *AUT* or *ACS*; and
 - (d) has not been engaged, and whose *associates* have not been engaged, in relation to the finding of the immovable for the *scheme* or the finding of the *scheme* for the immovable.

Investment in overseas property through an intermediate holding vehicle

15.6.19

R

- (1) An overseas immovable may be held by a *scheme* through an *intermediate holding vehicle* whose purpose is to enable the holding of immovables by the *scheme* or a series of such *intermediate holding vehicles*, provided that the interests of *unitholders* are adequately protected. Any investment in an *intermediate holding vehicle* for the purpose of holding an overseas immovable shall be treated for the purposes of this section as if it were a direct investment in that immovable.
- (2) An *intermediate holding vehicle* must be wholly owned by the *scheme* or another *intermediate holding vehicle* or series of *intermediate holding vehicles* wholly owned by the *scheme*, unless and to the extent that local legislation or regulation relating to the *intermediate holding vehicle* holding the immovable requires a proportion of local ownership.

15.6.20

G

- (1) The *authorised fund manager* may transfer capital and income between an *intermediate holding vehicle* and the *scheme* by the use of inter-company debt if the purpose of this is for investment in

immovables and repatriation of income generated by such investment. In using inter-company debt, the *authorised fund manager* should ensure the following:

- (a) a record of inter-company debt is kept in order to provide an accurate audit trail; and
 - (b) interest paid out on the debt instruments is equivalent to the net rental income earned from the immovables after deduction of the *intermediate holding vehicle's* reasonable running costs (including tax).
- (2) An *intermediate holding vehicle* should undertake the purchase, sale and management of immovables on behalf the scheme in accordance with the *scheme's* investment objectives and policy.
 - (3) Wherever reasonably practicable, an *intermediate holding vehicle* should have the same auditor and accounting reference date as the *scheme*.
 - (4) The accounts of any *intermediate holding vehicle* should be consolidated into the annual and interim reports of the *scheme*.
 - (5) The *authorised fund manager* should provide sufficient information to enable the *depository* to fulfil its duties under *COLL* in relation to the immovables held through an *intermediate holding vehicle*.

Investment limits for immovables

15.6.21 **R** The following limits apply in respect of immovables held as part of the *scheme property*:

- (1) the amount secured by mortgages over any immovable must not exceed 100% of the latest valuation by an *appropriate valuer* under ■ COLL 15.6.18R(2)(c) or ■ COLL 15.6.18R(2)(d) or ■ COLL 15.6.22R, as appropriate;
- (2) no option may be granted to a *person* to buy or obtain an interest in any immovable comprised in the *scheme property* if this might unduly prejudice the ability to provide *redemption*; and
- (3) the total of all premiums paid for options to purchase immovables must not exceed 10% of the *scheme* value in any 12-month period, calculated at the date of the granting of the option.

Standing independent valuer and valuation

15.6.22 **R**

- (1) In relation to the appointment of a valuer the *authorised fund manager* must:
 - (a) at the outset appoint the *standing independent valuer* with the approval of the *depository* and likewise upon any vacancy; and
 - (b) ensure that any immovables in the *scheme property* are valued by an *appropriate valuer (standing independent valuer)* appointed by the *authorised fund manager*.
- (2) The following apply in relation to the functions of the *standing independent valuer*:

- (a) the *authorised fund manager* must ensure that the *standing independent valuer* appointed under (1), procures the valuation of all the immovables held within the *scheme property*, on the basis of a full valuation with physical inspection (including, where the immovable is or includes a building, internal inspection) at least once a year;
 - (b) for the purposes of (a), any inspection in relation to adjacent properties of a similar nature and value may be limited to that of only one such representative property;
 - (c) the *authorised fund manager* must ensure that the *standing independent valuer* values the immovables, on the basis of a review of the last full valuation, at least once a *month*;
 - (d) if either the *authorised fund manager* or the *depository* becomes aware of any matter which appears likely to:
 - (i) affect the outcome of a valuation of an immovable; or
 - (ii) cause the valuer to decide to value under (a), instead of under (c),
 - it must immediately inform the *standing independent valuer* of that matter;
 - (e) the *authorised fund manager* must use its best endeavours to ensure that any other *affected person* reports to the *standing independent valuer* immediately upon that *person* becoming aware of any matter within (d); and
 - (f) any valuation by the *standing independent valuer* must be undertaken in accordance with UKVPS 3 and 2.3 of UKVPGA 2 of the RICS Valuation – Global Standards 2017 UK national supplement 2018 (the RICS Red Book) or, in the case of overseas immovables, on an appropriate basis but subject to any provisions of the *instrument constituting the fund*.
- (3) In relation to immovables:
- (a) any valuation under this *rule* has effect, until the next valuation under this *rule*, for the purposes of the value of immovables; and
 - (b) an agreement to transfer an immovable or an interest in an immovable is to be disregarded for the purpose of the valuation of the *scheme property* unless it reasonably appears to the *authorised fund manager* to be legally enforceable.

15.6.23

G

In considering whether a valuation of overseas immovables by the *standing independent valuer* is made on an appropriate basis for the purpose of ■ COLL 15.6.22R(2)(f), the *authorised fund manager* should consider whether that valuation was made in accordance with internationally accepted valuation principles, procedures and definitions as set out in the International Valuation Standards published by the International Valuation Standards Council.

15.7 Powers and responsibilities of the authorised fund manager and the depository

Application

15.7.1

R

This section applies to:

- (1) an *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
- (2) any other director of an *ICVC*;
- (3) the depository of an *AUT*, *ACS* or an *ICVC*; and
- (4) an *ICVC*,
which is a *long-term asset fund*.

Functions of the authorised fund manager

15.7.2

R

- (1) The *authorised fund manager* must manage the *scheme* in accordance with:
 - (a) the *instrument constituting the fund*;
 - (b) the applicable *rules*;
 - (c) the most recently published *prospectus*; and
 - (d) for an *ICVC*, the *OEIC Regulations*.
- (2) The *authorised fund manager* must carry out such functions as are necessary to ensure compliance with the *rules* that impose obligations on the *authorised fund manager* or *ICVC*, as appropriate.
- (3) The *authorised fund manager* must:
 - (a) make decisions as to the constituents of the *scheme property* in accordance with the investment objectives and policy of the *scheme*;
 - (b) instruct the *depository* how rights attaching to the ownership of *scheme property* are to be exercised;
 - (c) take action immediately to rectify any breach of the pricing methodology set out in the *prospectus*, which must (unless the *authorised fund manager* determines on reasonable grounds that the breach is of minimal significance) extend to payment of money:

- (i) by the *authorised fund manager* to *unitholders* and former *unitholders*;
 - (ii) by the *ACD* to the *ICVC*;
 - (iii) by the *ICVC* to the *ACD*;
 - (iv) by the *authorised fund manager* of the *AUT* or *ACS* to the *depository*; or
 - (v) by the *depository* (for the account of the *AUT* or *ACS*) to the *authorised fund manager*;
- (d) ensure where relevant that the *ICVC* complies with the relevant obligations imposed by, and when appropriate exercises the relevant powers provided under, the *OEIC Regulations*;
 - (e) maintain such records as are necessary to enable the *authorised fund manager* or the *ICVC*, as appropriate, to comply with and demonstrate compliance with the rules in this sourcebook and also in the case of an *ICVC*, the *OEIC Regulations*; and
 - (f) maintain for a period of six years a daily record of the *units* held, acquired or disposed of by the *authorised fund manager* including the classes of such *units*, and of the balance of any acquisitions and disposals.

Duties of the authorised fund manager: investment and borrowing powers

15.7.3

R

- (1) An *authorised fund manager* may give instructions to deal in the *scheme property*.
- (2) An *authorised fund manager* must avoid the *scheme property* being used or invested contrary to any provision in ■ COLL 15.6 (Investment and borrowing powers).
- (3) An *authorised fund manager* must immediately on becoming aware of any breach of ■ COLL 15.6 take action, at its own expense, to rectify that breach.
- (4) An *authorised fund manager* must take the action in (3) immediately, except in circumstances where doing so would not be in the best interests of *unitholders*, in which case the action must be taken as soon as such circumstances cease to apply.
- (5) An *authorised fund manager* must not postpone taking action in accordance with (3) unless the *depository* has given its consent.

Duties of the ACD or the authorised contractual scheme manager of a co-ownership scheme: umbrella schemes

15.7.4

R

Where reasonable grounds exist for an *ACD* of an *ICVC*, or an *authorised contractual scheme manager* of a *co-ownership scheme* which is an *umbrella*, to consider that a foreign law contract entered into by the *ICVC* or *authorised contractual scheme manager* on behalf of the *co-ownership scheme* may have become inconsistent with the principle of limited recourse stated in the *instrument constituting the fund* of the *ICVC* or *co-ownership scheme* (see ■ COLL 15.3.6R(3)(5) and ■ COLL 15.3.6R(3)(6)), the *ACD* or *authorised contractual scheme manager* of the *co-ownership scheme* must:

- (1) promptly investigate whether there is an inconsistency; and
- (2) if the inconsistency still appears to exist, take appropriate steps to remedy that inconsistency.

15.7.5 **G** In deciding what steps are appropriate to remedy the inconsistency, the *ACD* or *authorised contractual scheme manager* of the *co-ownership scheme* should have regard to the best interests of the *unitholders*. Appropriate steps to remedy the inconsistency may include:

- (1) where possible, renegotiating the foreign law contract in a way that remedies the inconsistency; or
- (2) causing the *ICVC* or the *authorised contractual scheme manager* on behalf of the *co-ownership scheme* to exit the foreign law contract.

Duties of the depository

- 15.7.6** **R**
- (1) The *depository* is responsible for the safekeeping of all the *scheme property*.
 - (2) The *depository* must:
 - (a) take all steps to ensure that transactions properly entered into for the account of the *scheme* are completed;
 - (b) take all steps to ensure that instructions properly given by the *authorised fund manager* in respect of the exercise of rights related to *scheme property* are carried out;
 - (c) ensure that any resulting benefit of a *derivatives* or forward transaction is received by itself in respect of the *scheme*;
 - (d) hold and deal with any income received in respect of the *scheme property* in accordance with ■ COLL 15.8.18R (Income);
 - (e) take reasonable care to ensure that the *scheme* is managed by the *authorised fund manager* in accordance with:
 - (i) the investment objectives, policy and strategy set out in the *LTAF's* most recent *prospectus*;
 - (ii) ■ COLL 15.6 (Investment and borrowing powers);
 - (iii) ■ COLL 15.8.2R (Valuation, pricing and dealing);
 - (iv) ■ COLL 15.8.18 (Income); and
 - (v) any provision of the *instrument constituting the fund* or the *prospectus* that relates to the provisions in (ii) to (iv);
 - (f) where applicable, comply with its obligations under ■ COLL 15.2.6R (Appointment of external valuer or authorised fund manager with knowledge, skills and experience of valuing long-term assets);
 - (g) keep records so as to comply with the *rules* in this sourcebook and so as to demonstrate such compliance; and
 - (h) be responsible for any other duties as set out in the *instrument constituting the fund*.

(3) If a relevant *ICVC* ceases to have any *directors*, the *depositary* may act in accordance with ■ COLL 6.5.6R (*ICVC* without a director).

(4) This *rule* applies to the *depositary* of a *long-term asset fund* to the extent the provisions are consistent with the requirements of the *AIFMD level 2 regulation*.

[**Note:** Articles 88 to 90 of the *AIFMD level 2 regulation* make provision relating to custody and safekeeping of *scheme property*. The *AIFMD level 2 regulation* applies to the *depositary* of a *long-term asset fund* because an *LTAF* must be managed by a *full-scope UK AIFM*.]

15.7.7

R

The *depositary* must also:

- (1) ensure that any *scheme property* in registered form is as soon as reasonably practicable registered in its name or that of its nominee or delegate, as appropriate; and
- (2) take into its custody or control all documents of title of the *scheme property* other than in respect of *derivatives* or forward transactions.

Delegation

15.7.8

G

(1) The delegation of *AIFM management functions* by a *full-scope UK AIFM* is subject to the *rules* in ■ FUND 3.10 (Delegation) and articles 75 to 82 of the *AIFMD level 2 regulation*. See also regulation 26 of the *AIFMD UK regulation*.

(2) The *authorised fund manager* of a *long-term asset fund* is required to possess the knowledge, skills and experience necessary to understand the activities of the *LTAF* and, in particular, the risks involved in those activities and the assets which the *LTAF* holds (or is to hold) in the *scheme property*. The *authorised fund manager* cannot rely on a delegation arrangement to satisfy this requirement (see ■ COLL 15.2.4R (Competence and resources of the authorised fund manager)).

15.7.9

G

(1) This paragraph applies where the *authorised fund manager* delegates portfolio management of particular assets to a third party under ■ FUND 3.10 (Delegation).

(2) Where (1) applies, the *authorised fund manager* will need to retain adequate risk management systems to identify, measure and monitor the risks relevant to the *long-term asset fund's* investment strategy in accordance with the requirements in ■ FUND 3.7 (Risk management) and the applicable requirements of the *AIFMD level 2 regulation*.

[**Note:** See ■ FUND 3.7 (Risk management) and articles 38 to 47 of the *AIFMD level 2 regulation*.]

Delegation and responsibility for regulatory obligations

15.7.10

G

(1) The *authorised fund manager* of an *LTAF* should note (and will need to comply with) article 75 of the *AIFMD level 2 regulation*. This provides that when delegating the task of carrying out one or more functions on its behalf, an *AIFM* must comply with various general

principles, including the principle that the delegation structure does not allow for the circumvention of the *AIFM's* responsibilities or liability, and that the obligations of the *AIFM* towards the *AIF* and its investors are not altered as a result of the delegation.

- (2) *Directors of an ICVC and depositaries* should also have regard to ■ SYSC 8 (Outsourcing). ■ SYSC 8.1.6R states that a *firm* remains fully responsible for discharging all of its obligations under the *regulatory system* if it outsources crucial or important operational functions or any relevant services and activities.

Conflicts of interest

15.7.11 R

- (1) The *authorised fund manager* and the *depositary* must ensure that any transaction in respect of the *scheme property* undertaken with an *affected person* is on terms at least as favourable to the *scheme* as any comparable arrangement on normal commercial terms negotiated at arm's length with an independent third party.
- (2) Paragraph (1) is subject to any provision in the *instrument constituting the fund* and the *prospectus* imposing a prohibition in relation to any type of transaction.

[Note: See articles 30 to 36 of the *AIFMD level 2 regulation*.]

Application of the rules on the register of unitholders: AUTs or ACSs

15.7.-12 R

- (1) ■ COLL 15.7.-12BR applies in respect of any *scheme* which is *sold*, promoted or otherwise made available to *retail clients* who are not *limited protection LTAF investors*.
- (2) ■ COLL 15.7.12R may be applied to a *scheme* which is intended only for *limited protection LTAF investors*.

15.7.-12A G

Where ■ COLL 15.7.-12BR is not applied to a *scheme* which is intended only for *limited protection LTAF investors*, the *authorised fund manager* is required to take reasonable care to ensure that ownership of *units* in that *scheme* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor* (see ■ COLL 15.1.3R (Long-term asset funds: eligible investors)).

The register of unitholders: AUTs or ACSs (schemes made available to retail clients who are not limited protection LTAF investors)

15.7.-12B R

- (1) (a) Either:
 - (i) the *manager* or the *trustee* (as nominated in the *trust deed*); or
 - (ii) the *authorised contractual scheme manager* or the *depositary* of the *ACS* (as nominated in the *contractual scheme deed*),
 must establish and maintain a *register of unitholders* as a *document* in accordance with this *rule*.

- (b) The *manager* or *trustee* or the *authorised contractual scheme manager* or *depository*, in accordance with their duties under (1)(a), must exercise all due diligence and take all reasonable steps to ensure the information contained on the *register* is at all times complete and up to date.
- (c) The *register* must contain:
- (i) the name and address of each *unitholder* (for joint *unitholders*, no more than four need to be registered);
 - (ii) the number of *units* of each *class* held by each *unitholder*;
 - (iii) the date on which the *unitholder* was registered for *units* standing in their name; and
 - (iv) the number of *units* of each *class* currently in *issue*.
- (d) No notice of any trust (express, implied or constructive) which may be entered in the *register* is binding on the *manager* or *trustee*, or the *authorised contractual scheme manager* or *depository*.
- (e) The *register* is conclusive evidence of the *persons* entitled to the *units* entered in it.
- (f) The *person* responsible for the *register* in (1)(a) must:
- (i) take reasonable steps to alter the *register* on receiving written notice of a change of name or address of any *unitholder*;
 - (ii) make the *register* available for inspection free of charge in the *United Kingdom* by or on behalf of any *unitholder* (including the *manager* or *authorised contractual scheme manager*), during office hours;
 - (iii) supply free of charge to any *unitholder*, or their authorised representative, a copy of the entries on the *register* relating to that *unitholder* on request;
 - (iv) where a *unitholder* defaults on paying for the *issue* or sale of *units*, make an alteration or deletion in the *register* to compensate for the default after which the *manager* or *authorised contractual scheme manager* becomes entitled to those *units* (until those units are either cancelled or re-sold and paid for); and
 - (v) carry out any conversion of *units* allowed for by (4) below after consultation with the *manager* or *trustee* or the *authorised contractual scheme manager* or *depository*, as appropriate.
- (2) (a) Subject to (2)(c), if no *person* is entered in the *register* as the *unitholder* of a *unit*, the *authorised fund manager* of the *AUT* or *ACS* must be treated as the *unitholder* of each such *unit* which is in *issue*.
- (b) Where *units* are transferred to the *authorised fund manager*, the *units* need not be cancelled and the *authorised fund manager* need not be entered on the *register* as the new *unitholder*.
- (c) In the case of a *limited partnership scheme*, unregistered *units* may be held by the *authorised contractual scheme manager*, as the agent for the *scheme*, provided the *authorised contractual*

scheme manager is not entered in the *register* as the *new unitholder*.

- (3) (a) Every *unitholder* of an *AUT* is entitled to transfer *units* held on the *register* by an instrument of transfer in any form that the *person* responsible for the *register* may approve, but that *person* is under no duty to accept a transfer unless it is permitted by the *trust deed* or *prospectus*.
- (b) Provided:
- (i) the requirements in ■ COLL 15.8.7R (Transfer of units in an ACS) are satisfied; and
- (ii) transfers of *units* are allowed by the *contractual scheme deed* and *prospectus* in accordance with the conditions specified by *rules*,
- every *unitholder* of an *ACS* is entitled to transfer *units* held on the *register* by an instrument of transfer in any form that the *person* responsible for the *register* may approve, but that *person* is under no duty to accept a transfer unless it is permitted by the *contractual scheme deed* and *prospectus*.
- (c) Every instrument of transfer of *units* of an *AUT* or *ACS* must be signed by, or on behalf of, the *unitholder* transferring the *units* (or, for a body corporate, sealed by that *body corporate* or signed by one of its *officers* (or in Scotland, two of its *officers*)) authorised to sign it and, unless the transferee is the *authorised fund manager*, the transferor must be treated as the *unitholder* until the name of the transferee has been entered in the *register*.
- (d) In the case of an *AUT* or *ACS*, every instrument of transfer (stamped as necessary) must be left for registration, with the *person* responsible for the *register*, accompanied by:
- (i) any necessary documents that may be required by legislation; and
- (ii) any other evidence reasonably required by the *person* responsible for the *register*.
- (e) In the case of an *AUT* or *ACS*, the details of an instrument of transfer must be kept for a period of 6 years from the date of its registration.
- (f) In the case of an *AUT* or *ACS*, on registration of an instrument of transfer, a record of the transferor and the transferee and the date of transfer must be made on the *register*.
- (4) Where there is more than one *class* of *units* offered for *issue* or *sale*, the *unitholder* has a right to convert from one to the other, provided that doing so would not contravene any provision in the *prospectus*.

[Note: See also ■ COLL 15.8.7R (Transfer of units in an ACS) and the related guidance in ■ COLL 15.8.8G in relation to transfers of *units* in an ACS.]

The register of unitholders: AUTs or ACSs (schemes intended only for limited protection LTAF investors)

15.7.12

R

- (1) The *authorised fund manager* or the *depository* of an *AUT* or *ACS* (in accordance with their responsibilities as set out in the *instrument*

15

constituting the fund) must maintain a *register of unitholders* as a document in accordance with this *rule*.

- (2) The *register* must contain:
 - (a) the name and address of each *unitholder* (for joint *unitholders* no more than four need to be registered);
 - (b) the number of *units* (including fractions of a *unit*) of each *class* held by each *unitholder*; and
 - (c) the date on which the *unitholder* was registered in the *register* for those *units*.
- (3) The *authorised fund manager* or the *depository* of an *AUT* or *ACS* (as appropriate) must take all reasonable steps and exercise all due diligence to ensure the *register* is kept complete and up to date.
- (4) Where relevant, the *authorised fund manager* must immediately notify the *depository* of an *AUT* or *ACS* of any information it receives which may affect the accuracy of any entry in the *register*.
- (5) In the case of a *limited partnership scheme*, unregistered *units* may be held by the *authorised contractual scheme manager* as the agent for the *scheme* provided the *authorised contractual scheme manager* is not entered in the *register* as the new *unitholder*.

Valuation of investments – good market practice

- 15.7.13 **R** Subject to any legal requirements which apply to the valuation of *investments* held or to be held in the *scheme property* of a *long-term asset fund*, the *authorised fund manager* of a *long-term asset fund* which carries on the valuation function itself must follow good market practice to value the *investments* held or to be held in the *scheme property*.

[Note: See ■ FUND 3.9 (Valuation) and articles 67 to 71 of the *AIFMD level 2 regulation*.]

Due diligence – good market practice

- 15.7.14 **R** Subject to any applicable legal requirements, the *authorised fund manager* of a *long-term asset fund* must use good market practice to:

- (1) establish, implement and apply written policies and procedures on due diligence; and
- (2) implement effective arrangements for ensuring that investment decisions on behalf of the *long-term asset fund* are carried out in compliance with the objectives, investment strategy and, where applicable, the risk limits of the *scheme*.

[Note: See articles 18 to 20 of the *AIFMD level 2 regulation*.]

- 15.7.15 **G** The *authorised fund manager* may use an appropriate code of good market practice for the purposes of conducting due diligence on *investments* held or to be held in the *scheme property*.

Application of assessment of value, assessment of investment valuations, due diligence, conflicts of interest and liquidity management and independent director rules

15.7.16 **R** ■ COLL 15.7.17R to ■ COLL 15.7.24R apply to an *authorised fund manager* of an *AUT, ACS* or *ICVC*.

Assessment of value

15.7.17 **R** (1) An *authorised fund manager* must conduct an assessment at least annually for each *scheme* it manages of whether the payments out of *scheme property* set out in the *prospectus* are justified in the context of the overall value delivered to *unitholders*.

(2) In carrying out the assessment required by (1), the *AFM* must, separately for each *class of units* in a *scheme*, consider at least the matters set out in ■ COLL 6.6.21R (Table: minimum considerations – assessment of value).

15.7.18 **G** The *guidance* in ■ COLL 6.6.22G applies to interpreting the requirements of ■ COLL 6.6.21R as applied by ■ COLL 15.7.17R.

15.7.19 **R** Failure by an *AFM* to take sufficient steps to address any instance where a *scheme's* charges are not justified in the context of the overall value delivered to *unitholders* may be relied on as tending to establish contravention of ■ COBS 2.1.1R or ■ COBS 2.1.4R as applicable.

Assessment of investment valuations, due diligence, conflicts of interest and liquidity management

15.7.20 **R** (1) An *authorised fund manager* of a *long-term asset fund* must conduct an assessment at least annually of how it has managed the *LTAF* in the best interests of the *LTAF*, the *LTAF's* investors and the integrity of the market (see ■ COBS 2.1.4R (AIFMs' best interests rules)).

(2) In carrying out the assessment required by (1), the *authorised fund manager* must consider at least the matters set out in ■ COLL 15.7.21R (Table: minimum considerations – valuation of investments, due diligence, conflicts of interest and liquidity management assessment).

Table: minimum considerations – assessment of investment valuations, due diligence, conflicts of interest and liquidity management

15.7.21 **R** This table belongs to ■ COLL 15.7.20R.

1 Valuation of investments

- (1) Where the *authorised fund manager* performs the valuation function itself:
 - (a) how the methodologies maintained by the *authorised fund manager* to value the *LTAF's* investments represent good market practice;

- (b) where a methodology maintained by the *authorised fund manager* was changed or modified in relation to the valuation of a particular *investment*, the rationale for that change;
 - (c) the rationale for any material change to the valuation of an *investment* held in the *scheme property* during the relevant period; and
 - (d) the consistency of valuation of the *LTAf's investments* with those of the other *AIFs* managed by the *authorised fund manager*
- (2) Where an *external valuer* has been appointed, the *authorised fund manager's* assessment during the relevant period of how:
- (a) the *external valuer* satisfied FUND 3.9.7R(3) (Performance of the valuation function);
 - (b) the *authorised fund manager* was satisfied that it could demonstrate the matters specified in FUND 3.9.9R (Appointment of an *external valuer*); and
 - (c) the *authorised fund manager* was satisfied that it could demonstrate the matters specified in FUND 3.10.2R(2)(f) (General delegation requirements).

2 Due diligence

In relation to due diligence carried out on *investments*, how that due diligence was carried out in accordance with good market practice (see COLL 15.7.14R (Due diligence – good market practice)).

3 Conflicts of interest

In relation to conflicts of interest:

- (1) how any conflicts of interest identified by the *authorised fund manager* under SYSC 10.1.23R (Additional requirements for an *AIFM*) and article 30 of the *AIFMD level 2 regulation* have been avoided, managed, monitored and (where applicable) disclosed under SYSC 10.1.24R (Additional requirements for an *AIFM*) and articles 31 to 36 of the *AIFMD level 2 regulation*; and
- (2) how, in relation to each conflict of interest identified, those actions were in the best interests of the *LTAf*, the *LTAf's* investors and the integrity of the market.

4 Liquidity management

In relation to the management of liquidity of the *long-term asset fund*:

- (1) how the liquidity profile of the *LTAf*, taking into account borrowing (if any), has been consistent with its redemption policy;
- (2) where monitoring of the liquidity risk of the *LTAf*, including the results of any stress tests, has identified any liquidity management issues, how these were addressed in the best interests of the *LTAf*, the *LTAf's* investors and the integrity of the market;
- (3) where the *authorised fund manager* has sold an *investment* held in the *scheme property* of the *LTAf* at a price adjusted to reflect the *authorised fund manager's* need to meet *redemption* requests, how that price was determined to be in the best interests of the *LTAf*, the *LTAf's* investors and the integrity of the market; and
- (4) how decisions to apply or refrain from applying any *dilution levy* or adjustment to *sales* and *redemptions* of *units* ensured that all investors in the *LTAf* were treated fairly, including those investors who were dealing in *units* of the *LTAf*, and those investors who (as applicable) were already invested or remained invested in the *LTAf*.

[Note: See FUND 3.6.3R (Liquidity systems and procedures) and articles 46 to 49 of the *AIFMD level 2 regulation*.]

Independent directors

- 15.7.22 **R**
- (1) An *authorised fund manager* must ensure that at least one quarter of the members of its *governing body* are independent natural *persons*. If the *AFM's governing body* comprises fewer than eight members, the *AFM* must instead ensure that at least two of its members are independent natural *persons*.
 - (2) The *authorised fund manager*, in appointing an independent member of its *governing body*, must determine whether such a member is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, that member's judgement.
 - (3) The *authorised fund manager* must take reasonable steps to ensure that independent members appointed to its *governing body* have sufficient expertise and experience to be able to make judgements on whether the *AFM* is managing each *scheme* in the best interests of *unitholders*.
 - (4) (a) Independent members of an *AFM's governing body* must be appointed for terms of no longer than five years, with a cumulative maximum duration of ten years.
 (b) If an independent member is appointed to more than one *governing body* within an *AFM's group*, the cumulative maximum duration of ten years referred to in (a) is calculated by adding the durations of each separate appointment and discounting periods during which appointments overlapped to avoid double counting.
 (c) In relation to a *person* who served as an independent director of an *AFM's governing body* before 1 October 2019, the five-year term(s) and cumulative maximum duration of ten years run from that date.
 - (5) Independent members are not eligible for reappointment to an *AFM's governing body* until five years have elapsed from the end of the ten-year period referred to in (4).
 - (6) The terms of *employment* on which independent members are appointed must be such as to secure their independence.

- 15.7.23 **G** The *guidance* in ■ COLL 6.6.26G applies to interpreting the requirement for independence in ■ COLL 15.7.22R.

Allocation of responsibility for compliance to an approved person

- 15.7.24 **R**
- (1) An *AFM* must allocate responsibility for ensuring its compliance with ■ COLL 15.7.17R, ■ COLL 15.7.20R, ■ COLL 15.7.22R and ■ COBS 2.1.4R (*AFMs' best interests rules*) to an *approved person*.

- (2) Where the chair of the *AFM's governing body* is an *approved person*, the *AFM* must allocate the responsibility set out in (1) to that *person*.

[**Note:** See ■ SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities).]

15.8 Valuation, pricing, dealing and income

Application

15.8.1 **R** This section applies to:

- (1) an *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
- (2) any other *director* of an *ICVC*;
- (3) the *depository* of an *AUT*, *ACS* or an *ICVC*; and
- (4) an *ICVC*,
which is a *long-term asset fund*.

Valuation, pricing and dealing

- 15.8.2 **R**
- (1) The value of the *scheme property* is the net value of the *scheme property* after deducting any outstanding borrowings (including any capital outstanding on a mortgage of an immovable).
 - (2) Any part of the *scheme property* which is not an *investment* (save an immovable) must be valued at fair value.
 - (3) For the purposes of (2), any charges that were paid, or would be payable, on acquiring or disposing of the asset must be excluded from the value of that asset.
 - (4) The value of the *scheme property* of an *authorised fund* must, save as otherwise provided in this section, be determined in accordance with the provisions of the *instrument constituting the fund* and the *prospectus*, as appropriate.
 - (5) The *scheme* must have a *valuation point* on each *dealing day* and there must be at least one *valuation point* every *month*.
 - (6) The *authorised fund manager* must prepare a valuation in accordance with (4) for each relevant type of *unit* at each relevant *valuation point*.
 - (7) The price of a *unit* must be calculated on the basis of the valuation in (6) in a manner that is fair and reasonable as between *unitholders*.

- (8) In respect of each *valuation point* under (5), the *authorised fund manager* must publish in an appropriate manner the price of any type of *unit* based on the valuation carried out in accordance with (6).
- (9) The *authorised fund manager* must also provide on request to any *unitholder* at any time an estimated price for any type of *unit* in the *scheme*.
- (10) The period of any *initial offer* and how it should end must be set out in the *prospectus* and must not be of unreasonable length.

Profits from dealing as principal

15.8.3

R

- (1) Where an *authorised fund manager*:
 - (a) accepts instructions to *sell* and *redeem units as principal*; and
 - (b) is able to execute a *sale* instruction by *selling units* it has *redeemed* at the same *valuation point*, without placing its own capital at risk,

subject to (2), the *AFM* must not retain for its own account, or the account of any of its *associates*, the difference between the *price* at which a *unit* was *redeemed* (before deduction of any *redemption charge*) and the *price* at which the same *unit* was sold (after deduction of any *preliminary charge*). Any such difference must be allocated in a way that is fair to *unitholders*.
- (2) In calculating the profit arising under (1), the *AFM* may offset any loss it incurs at the same *valuation point*, calculated in accordance with (3), when dealing as *principal* in relation to:
 - (a) a *unit issued* at that *valuation point* to fulfil a *sale* instruction that cannot be matched against any *redeemed unit* or any other *unit* of that *class* held by the *manager as principal*; and
 - (b) a *unit redeemed* and *cancelled* at that *valuation point*.
- (3) The amount of the loss referred to in (2) is:
 - (a) for *units issued* in accordance with (2)(a), the difference between the *issue price* of a *unit* and the *sale price* of that *unit*, less any *preliminary charge*;
 - (b) for *units cancelled* in accordance with (2)(b), the difference between the *cancellation price* of a *unit* and the *redemption price* of that *unit*, before any *redemption charge* is applied.
- (4) Where any loss arising under (2) is greater than any profit arising under (1), that loss cannot be offset against any profit arising at a subsequent *valuation point*.
- (5) This *rule* applies to the *redemption* and *sale* of *units* of different *classes* at the same *valuation point*, if those *classes* are treated as one for the purpose of ■ COLL 15.8.6R (Issue and cancellation of units in multiple classes).

15.8.4

G

- (1) The *authorised fund manager* may commit its own capital to hold *units* for *dealing as principal* and may seek to profit from gains in the value of the *units* it holds, when it *issues* or *redeems units* at one

valuation point then *sells* or *cancels* them at a later *valuation point*. However, it should not profit from situations in which it is not exposed to an equal risk of loss if the *units* fall in value, or from the ability to match simultaneous *sales* and *redemptions* at different *prices* at no risk to its own capital.

- (2) The *AFM* may allocate any amount arising under ■ COLL 15.8.3R(1) (Profits from dealing as principal) in the interests of investors by paying it into *scheme property* for the benefit of all *unitholders*. Alternatively, the *AFM* may redistribute it individually among the transacting investors.
- (3) Where the *AFM* intends to allocate a payment to *scheme property*, it should determine if the amount (when added to any other amounts of the same kind relating to that *class of units*) would, if taken into account in the *scheme's* valuation, affect the accuracy of the *unit prices* to four significant figures. If so, and subject to (4) below, the amount should be accrued in each subsequent valuation of the *scheme* until the payment is transferred. Such payments into *scheme property* should be made regularly and no less frequently than payments for the *AFM's* management charge are transferred out of *scheme property*.
- (4) The calculation to be performed under ■ COLL 15.8.3R (Profits from dealing as principal) should be carried out in relation to each *valuation point* of the *scheme* on a timely basis. Where it is not practical to do this before *unit prices* are calculated and published, the *AFM* should ensure that the accrual represents a reasonable estimate of the total payment it intends to make to *scheme property*.

Issue and cancellation of units

15.8.5

R

- (1) The *authorised fund manager* must:
 - (a) ensure that at each *valuation point* there are at least as many *units* in *issue* of any *class* as there are *units* registered to *unitholders* of that *class*; and
 - (b) not do or omit anything that would, or might, confer on itself a benefit or advantage at the expense of a *unitholder* or potential *unitholder*.
- (2) For the purposes of (1) the *authorised fund manager* may take into account *sales* and *redemptions* after the *valuation point*, provided it has systems and controls to ensure compliance with (1).
- (3) The *authorised fund manager* must arrange for the *issue* and *cancellation* of *units* and pay money or assets to or from the *depository* for the account of the *scheme* as required by the *prospectus*.
- (4) The *authorised fund manager* must keep a record of *issues* and *cancellations* made under this *rule*.
- (5) The *authorised fund manager* may arrange for the *ICVC*, or instruct the *depository* of the *AUT* or *ACS*, to *issue* or *cancel units* where the *authorised fund manager* would otherwise be obliged to *sell* or *redeem* the *units* in the manner set out in the *prospectus*.

- (6) Where the *authorised fund manager* has not complied with (1), it must correct the error as soon as possible and must reimburse the *scheme* any costs it may have incurred in correcting the position, subject to any reasonable minimum level for such reimbursement as set out in the *prospectus*.

Issue and cancellation of units in multiple classes

15.8.6

R

If a *long-term asset fund* has two or more *classes* of *unit* in *issue*, the *authorised fund manager* may treat any or all of those *classes* as one for the purpose of determining the number of *units* to be *issued* or *cancelled* by reference to a particular *valuation point*, if:

- (1) the *depository* gives its prior agreement; and
- (2) the relevant *classes*:
 - (a) have the same entitlement to participate in, and the same liability for *charges*, expenses and other payments that may be recovered from, the *scheme property*; or
 - (b) differ only as to whether income is distributed or accumulated by periodic credit to capital, provided the *price* of the *units* in each *class* is calculated by reference to undivided shares in the *scheme property*.

Transfer of units in an ACS

15.8.7

R

- (1) Where transfer of *units* in an ACS is allowed by its *contractual scheme deed* and *prospectus* in accordance with the conditions specified by *FCA rules*, the *authorised contractual scheme manager* of the ACS must take reasonable care to ensure that *units* are only transferred if the conditions specified by the *FCA* under (2) are met.
- (2) The *FCA* specifies that for the purposes of (1), and for the purposes of ■ COLL 15.3.6R(3)(9)(a)(vii)(B) (Table: contents of the instrument constituting the fund) and ■ COLL 15.4.5R(18)(2) (Table: contents of long-term asset fund prospectus), *units* in the ACS may only be transferred to a *person*:
 - (a) who is a:
 - (i) *professional ACS investor*; or
 - (ii) *large ACS investor*; or
 - (iii) *person* who already holds *units* in the *scheme*; and
 - (b) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in ■ COBS 4.12A (Promotion of restricted mass market investments).

15.8.8

G

The *FCA* recognises that some transfers of *units* arise by operation of law (such as upon death or bankruptcy of the *unit holder*, or otherwise) and are accordingly outside the control of the *authorised contractual scheme manager*. The *authorised contractual scheme manager* is expected to comply with its responsibilities under ■ COLL 15.8.10R (Redemption of ACS units in an LTAF by an authorised contractual scheme manager) in those cases by *redeeming* those *units*.

Responsibilities of the authorised contractual scheme manager in relation to ACS units

- 15.8.9 **R** (1) The *authorised contractual scheme manager* of an *authorised contractual scheme* which is a *long-term asset fund* must take reasonable care to ensure that rights or interests in *units* in the *scheme* are not acquired by any *person* from or through an *intermediate unitholder* in a *long-term asset fund*, unless:
- (a) that *person* is a:
 - (i) *professional ACS investor*; or
 - (ii) *large ACS investor*; or
 - (iii) *person* who already holds *units* in the *scheme*; and
 - (b) *units* in a *long-term asset fund* may be promoted to that *person* without contravening the *rules* in ■ COBS 4.12A (Promotion of restricted mass market investments).
- (2) The *authorised contractual scheme manager* will be regarded as complying with (1) to the extent that it can show that it was reasonable for it to rely on relevant information provided by another *person*.

Redemption of ACS units in an LTAF by an authorised contractual scheme manager

- 15.8.10 **R** The *authorised contractual scheme manager* of a *long-term asset fund* which is an ACS must *redeem units* in the *scheme* as soon as practicable after becoming aware that those *units* are vested in anyone (whether as a result of subscription or transfer of *units*) other than a *person* meeting the criteria in ■ COLL 15 Annex 1R(1) and ■ (2) (ACS Long-Term Asset Funds: eligible investors).

Dealing: sale of units

- 15.8.11 **R** The *authorised fund manager* must, at all times during the *dealing day*, be willing to effect the *sale* of *units* to any eligible investor (subject to any conditions in the *instrument constituting the fund* and the *prospectus*, which must be fair and reasonable as between all *unitholders* and potential *unitholders*) for whom the *authorised fund manager* does not have reasonable grounds to refuse such *sale*.

Dealing: redemption of units

- 15.8.12 **R** (1) In this *rule*, a 'redemption determination' is a determination by the *authorised fund manager* of the *long-term asset fund* to:
- (a) accept a request by a *unitholder* to *redeem units* in the *scheme*;
 - (b) refuse a *redemption* request (see paragraph (2)(c)); or
 - (c) make such other determination in relation to the *redemption* request as may be provided for in the *instrument constituting the fund* and the *prospectus* (see paragraph (6) below, and ■ COLL 15.8.13G(6) and ■ (7)).
- (2) The *redemption* arrangements for a *long-term asset fund* must ensure the following:

- (a) A *unitholder* must be able to submit a request to *redeem units* before the next date on which the *authorised fund manager* makes a *redemption determination*, subject to any cut-off point which may be specified in the *prospectus* for this purpose.
 - (b) The *authorised fund manager* must not make *redemption determinations* more frequently than the *dealing* frequency of the *scheme* and, in any event, not more than once a *month*.
 - (c) The *authorised fund manager* must accept a *unitholder's* request to *redeem units* in the *scheme* in accordance with any conditions in the *instrument constituting the fund* and the *prospectus* unless the *authorised fund manager* has reasonable grounds to refuse the *redemption* request.
 - (d) The *authorised fund manager* must inform the *unitholder* of the outcome of the *redemption determination*.
 - (e) If the *authorised fund manager* accepts the *unitholder's* request to *redeem units* in the *scheme*:
 - (i) the *redemption* request is deemed to be irrevocable;
 - (ii) the *authorised fund manager* must undertake to effect the *redemption* at the applicable time, in accordance with any conditions in the *instrument constituting the fund* and the *prospectus*; and
 - (l) the *authorised fund manager* must confirm to the *unitholder*:
 - (A) that the *redemption* request has been accepted and cannot be revoked; and
 - (B) having regard to the period specified for the purposes of (f), the dates on which it is expected that the *redemption* will be effected and the appropriate proceeds paid.
 - (f) The *authorised fund manager* must determine the *price* for the *units* being *redeemed* pursuant to the *unitholder's redemption* request at the first *valuation point* following the end of the notice period specified in the *instrument constituting the fund* and the *prospectus* (the 'notice period').
 - (g) The notice period must be at least 90 *days* after the *day* on which the request to *redeem units* in the *scheme* was accepted.
 - (h) The *authorised fund manager* must *redeem* the *units* at the *price* determined in accordance with (f) and pay the *unitholder* the appropriate proceeds of *redemption* in accordance with paragraphs (4) and (5).
- (3) Subject to ■ COBS 2.1.4R (AIFMs' best interests rule) and ■ COLL 15.3.2R (Classes of unit), where the *long-term asset fund* has more than one *class of unit*, the arrangements for the *redemption* of *units* may differ between *classes* provided the arrangements for all *classes of unit* ensure the matters specified in (2).
- (4) After having effected a *redemption* request, the *authorised fund manager* must pay the full proceeds of the *redemption* to the *unitholder* within any reasonable period specified in the *prospectus*, unless it has reasonable grounds for withholding payment.
- (5) Payment of proceeds on *redemption* must be made by the *authorised fund manager* in any manner provided for in the *prospectus* which

must be fair and reasonable as between *redeeming unitholders* and continuing *unitholders*.

- (6) If the *instrument constituting the fund* and the *prospectus* of a *long-term asset fund* permit the *authorised fund manager* to defer or limit a requested *redemption*, those arrangements must not result in:
- (a) the *authorised fund manager* making *redemption determinations* more frequently than once a *month* (see paragraph (2)(b)); or
 - (b) the *notice period* being shorter than 90 *days* (see paragraph (2)(g)).

Sale and redemption of units: guidance

15.8.13

G

- (1) The *authorised fund manager* of a *long-term asset fund* is required to ensure that the investment strategy, liquidity profile and redemption policy for the *scheme* are consistent (see ■ FUND 3.6.2R (Alignment of investment strategy, liquidity profile and redemption policy)).
- (2) Given the type of *investments* that a *long-term asset fund* is likely to hold in its *scheme property*, the FCA considers that a *long-term asset fund* will need to operate particular arrangements for the *redemption of units*.
- (3) The *authorised fund manager* of a *long-term asset fund* must not make *redemption determinations* more frequently than once a *month* (see ■ COLL 15.8.12R(2)(b)), which is the maximum frequency for determining such requests and effecting *redemptions*. The *rules* also require a *long-term asset fund* to have a *notice period* of at least 90 *days* (see ■ COLL 15.8.12R(2)(g)). This is the minimum *notice period* for a *long-term asset fund*.
- (4) However, the frequency of the *days* on which *redemption determinations* are made and the particular *notice period* which is appropriate for a *long-term asset fund* will depend on the reasonable expectations of the target investor group and the particular investment objectives, investment policy and investment strategy of the *scheme*.
- (5) The *authorised fund manager* must also comply with the *AIFMD level 2 regulation*, which contains detailed requirements about liquidity management taking into account the *long-term asset fund's* investment strategy, liquidity profile and *redemption* policy. See, for example, articles 46 to 49 of the *AIFMD level 2 regulation*.
- (6) Other determinations which an *authorised fund manager* may make, if provided for in the *instrument constituting the fund* and the *prospectus* (see ■ COLL 15.8.12R(1)(c)), could include a deferral of execution of a *redemption* request or payment, or a limit on the value or number of *units* which can be *redeemed* at any one *valuation point*.
- (7) *Redemption determinations* should be carried out so that all *unitholders* who have requested *redemption* at any one *valuation point* are treated fairly.

Property Authorised Investment Funds

15.8.14 **R**

The *authorised fund manager* of a *long-term asset fund* that is also a *property authorised investment fund* must take reasonable steps to ensure that no *body corporate* holds more than 10% of the net asset value of that *scheme* (the “maximum allowable”).

For the purposes of (1), a *body corporate* shall not be treated as holding more than the maximum allowable to the extent that:

the *body corporate* holds *units* in a *unit trust scheme* which holds *shares* in the *property authorised investment fund*; and

in their capacity as *trustees* of the *unit trust scheme*, the *trustees* are chargeable in the *United Kingdom* either to income tax or to corporation tax.

Where the *authorised fund manager* of a *property authorised investment fund* becomes aware that a *body corporate* holds more than the maximum allowable, the *authorised fund manager* must:

notify the *body corporate* of that event;

not pay any income distribution to the *body corporate*; and

redeem or *cancel units* forming the *body corporate’s* holding down to the maximum allowable within a reasonable timeframe.

For the purpose of (3)(c), a reasonable timeframe means the timeframe which the *authorised fund manager* reasonably considers to be appropriate having regard to the interests of the *unitholders* as a whole.

Reasonable steps to monitor the maximum allowable include:

15.8.15 **G**

Reasonable steps to monitor the maximum allowable include:

- (1) regularly reviewing the *register*; and
- (2) taking reasonable steps to ensure that *unitholders* are kept informed of the requirement that no *body corporate* may hold more than 10% of the net asset value of a *property authorised investment fund*.

Payments: application of rules

15.8.15A **R**

- (1) ■ COLL 15.8.15CR to ■ COLL 15.8.15PR apply in relation to an *LTAf retail class*.
- (2) In relation to a *limited protection LTAf class*:
 - (a) ■ COLL 15.8.15CR and ■ COLL 15.8.15DG always apply; and
 - (b) ■ COLL 15.8.15QR may be applied.
- (3) ■ COLL 15.8.15CR to ■ COLL 15.8.15PR apply as specified in the table in (4).
- (4) This table belongs to (3).

Rule	ICVC	Authorised fund manager	Depository of an ICVC, AUT or ACS
COLL 15.8.15CR	x	x	x
COLL 15.8.15DG	x	x	x
COLL 15.8.15EG	x	x	
COLL 15.8.15FR	x	x	
COLL 15.8.15GR		x	
COLL 15.8.15HG		x	
COLL 15.8.15IR		x	
COLL 15.8.15JR		x	x
COLL 15.8.15KG		x	x
COLL 15.8.15LR	x	x	
COLL 15.8.15MG	x	x	
COLL 15.8.15NR	x	x	x
COLL 15.8.15OG		x	x
COLL 15.8.15PR	x	x	

Note: "x" means "applies" but not every paragraph in every rule will necessarily apply.

15.8.15B **G**

Where ■ COLL 15.8.15EG to ■ COLL 15.8.15PR are not applied to *classes* which are intended only for *limited protection LTAF investors*, the *authorised fund manager* is required to take reasonable care to ensure that ownership of *units* in that *scheme* is recorded in the *register* only for a *person* who is a *limited protection LTAF investor* (see ■ COLL 15.1.3R (Long-term asset funds: eligible investors)).

Payments out of scheme property

15.8.15C **R**

- (1) The only payments which may be recovered from the *scheme property* of a *long-term asset fund* are those in respect of:
- (a) remunerating the parties operating the *authorised fund*;
 - (b) the administration of the *authorised fund*;
 - (c) the investment or safekeeping of the *scheme property*; and
 - (d) subject to (1A), donations to one or more *registered charities* for Sharia compliance purposes (in this *rule*, 'purification'), as set out in and authorised by the *prospectus* of the *scheme*.
- (1A) Payments relating to (1)(d) may only be made from the *income property* of the *scheme* where they represent the required percentage of the *income property* recognised for purification as advised by a *person* with appropriate knowledge of finance and Islamic law.
- (2) No payment under this *rule* can be made from *scheme property* if it is unfair to (or materially prejudices the interests of) any class of *unitholders* or potential *unitholders*.

- (3) Paragraphs (1) and (2) do not apply to any payments in relation to any taxation payable by the *authorised fund*.
- (4) Paragraphs (1) and (2) do not permit payments to third parties for the safekeeping or administration of *units* on behalf of *unitholders* rather than on behalf of the *authorised fund*.

Payments out of scheme property: guidance

15.8.15D G

- (1) Details of permissible types of payments out of *scheme property* are to be set out in full in the *prospectus* in accordance with ■ COLL 15.4.5R(14) (Table: contents of a long-term asset fund prospectus).
- (2) An *authorised fund manager* should consider whether a payment to an *affected person* is unfair because of its amount or because it confers a disproportionate benefit on the *affected person*.
- (3) ■ COLL 15.8.15CR(2) does not invalidate a payment that gives rise to a difference between the rights of separate *classes of unit* that relates solely to the payments that may be taken out of *scheme property*.
- (4) Payments to third parties as referred to in ■ COLL 15.8.15CR(4) include payments to *platform service providers* and other similar platform services.
- (5) The *person* referred to in ■ COLL 15.8.15CR(1A) should be independent of the *authorised fund manager* and any *registered charity* to which payments may be made.

Performance fees

15.8.15E G

- (1) For the *authorised fund manager's* periodic charge or for payments out of *scheme property* to the *investment adviser*, the *prospectus* may permit a payment based on a comparison of one or more aspects of the *scheme property* or *price* in comparison with fluctuations in the value or price of property of any description or index or other factor designated for the purpose (a 'performance fee').
- (2) Any performance fee should be specified in the appropriate manner in the *prospectus* and should be consistent with ■ COLL 15.8.15CR. In determining whether the performance fee is consistent, the *authorised fund manager* should have regard to factors such as:
 - (a) where it is made on the basis of performance of the *authorised fund* against any index or any other factor, that benchmark must be reasonable given the investment objectives of the *authorised fund* and must be consistently applied;
 - (b) the performance fee may be based on performance above a defined positive rate of return (the 'hurdle rate'), which may be fixed or variable;
 - (c) where (a) or (b) applies, the benchmark or hurdle rate may be carried forward to future accrual periods;
 - (d) the period over which it accrues and the frequency with which it crystallises should be reasonable; and

(e) except where allowed by ■ COLL 15.8.15CR(1), there are to be no arrangements to adjust the *price* or value of *sale* or repurchase transactions in respect of performance fees accrued or paid if the transactions occur within the accrual period of the charge.

(3) In accordance with ■ COLL 15.4.5R(14) (Table: contents of a long-term asset fund prospectus), the *prospectus* should contain the maximum amount or percentage of *scheme property* that the performance fee might represent in an *annual accounting period*. This disclosure should be given in plain language together with examples of the operation of the performance fee.

15.8.15F **R** Any performance fee specified in the *prospectus* must be calculated on the basis of the *scheme's* performance after deduction of all other payments out of *scheme property*.

Charges on buying and selling units

15.8.15G **R** (1) No *person* other than the *authorised fund manager* may impose charges on *unitholders* or *potential unitholders* when they buy or sell units.

(2) An *authorised fund manager* must not make any charge or levy in connection with:

(a) the *issue* or *sale* of *units* except where a *preliminary charge* is made in accordance with the *prospectus* of the *scheme* which must be:

(i) a fixed amount; or

(ii) calculated as a percentage of the *price* of a *unit*; or

(iii) calculated as a percentage of the amount being subscribed; or

(b) the *redemption* or *cancellation* of *units*, except a *redemption charge* made in accordance with the *prospectus* current at the time the relevant *units* were purchased by the *unitholder*.

Charges on buying and selling units: guidance

15.8.15H **G** (1) To introduce a new charge for the *sale* or *redemption* of *units*, or any new category of remuneration for its services or increase the rate stated in the *prospectus*, the *authorised fund manager* will need to comply with:

(a) ■ COLL 15.4.5R (Table: contents of a long-term asset fund prospectus);

(b) ■ COLL 15.5.10R (Alterations to the scheme and notices to unitholders) (see also the *guidance* in ■ COLL 15.5.11G); and

(c) COLL 15.5.11AR (Change events relating to feeder LTAFs) (see also the *guidance* in COLL 15.5.11BG).

(2) A *redemption charge* may be expressed in terms of amount or percentage. It may also be expressed as diminishing over the time during which the *unitholder* has held the *units* or be calculated on the basis of the *unit price* performance of the *units*. However, any

redemption charge should not be such that it could be reasonably regarded as restricting any right of *redemption*.

- (3) The *prospectus* should contain a statement as to the determination of the order in which *units* that have been acquired at different times by a *unitholder* are to be taken to be *redeemed* or cancelled for the purpose of imposing the *redemption charge*.
- (4) When a *preliminary charge* is calculated as a percentage of the price of a *unit*, the percentage amount should be added to:
 - (a) the price of a *unit* (for a *single-priced authorised fund*); or
 - (b) the *issue price* (for a *dual-priced authorised fund*).

Charges for the exchange of units in an umbrella

- 15.8.15I R For a *scheme* which is an *umbrella*, an *authorised fund manager* must not make a charge on an exchange of *units* in one *sub-fund* for *units* in another *sub-fund* unless the amount of the charge is not more than the amount stated in the current *prospectus*.

Allocation of payments to income or capital

- 15.8.15J R
- (1) The *authorised fund manager* must determine whether a payment is to be made from the *income property* or *capital property* of an *authorised fund*, and in doing so the *authorised fund manager* must:
 - (a) pay due regard to whether the nature of the cost is income related or capital related and the objective of the *scheme*; and
 - (b) agree the treatment of any payment with the *depository*.
 - (2) Where, for any *class* of *units* for any *annual accounting period* (see ■ COLL 15.8.18R(2) (Income)), the amount of the *income property* is less than the income distributed, the shortfall must, as from the end of that period, be charged to the *capital account* and must not subsequently be transferred to the *income account*.

Allocation of payments to income or capital: guidance

- 15.8.15K G
- (1) Any payment as a result of effecting transactions for the *authorised fund* should be made from the *capital property* of the *scheme*.
 - (2) Other than the payments in (1), all other payments should be made from *income property* in the first instance but may be transferred to the *capital account* in accordance with ■ COLL 15.8.15JR(1) (Allocation of payments to income or capital).
 - (3) For payments transferred to the *capital property* of the *scheme* in accordance with (2), the *prospectus* should disclose the matters in ■ COLL 15.4.5R(14) (Table: contents of a long-term asset fund prospectus).
 - (4) If the *authorised fund manager* wishes to make a change in relation to the allocation of payments, the procedures in ■ COLL 15.5.10R (Alterations to the scheme and notices to unitholders) will be relevant.

Prohibition on promotional payments

- 15.8.15L **R**
- (1) No payment may be made from *scheme property* to any *person*, other than a payment to the *authorised fund manager* permitted by the *rules* in *COLL*, for the acquisition or promotion of the *sale* of *units* in an *authorised fund*.
 - (2) Paragraph (1) does not apply to the costs an *authorised fund* incurs preparing and printing the *key information document*, provided the *prospectus* states, in accordance with ■ COLL 15.4.5R(14) (Table: contents of a long-term asset fund prospectus), that these costs are properly payable to the *authorised fund manager* from *scheme property*.

Prohibition on promotional payments: guidance

- 15.8.15M **G**
- Examples of payments which are not permitted by ■ COLL 15.8.15LR include:
- (1) *commission* payable to intermediaries (such payments should normally be borne by the *authorised fund manager*);
 - (2) payments or costs in relation to the preparation or dissemination of *financial promotions* (other than costs allowed under ■ COLL 15.8.15LR(2)).

Payments of liabilities on transfer of assets

- 15.8.15N **R**
- (1) Where the *scheme property* of an *LTAF* is transferred to a second *authorised fund* (or to the *depository* for the account of the *authorised fund*) in consideration of the *issue* of *units* in the second *authorised fund* to *unitholders* in the first *scheme*, (2) applies.
 - (2) The *ICVC* or the *depository* of the *ICVC*, *ACS* or *AUT* as the successor in title to the property transferred may pay out of the *scheme property* any liability arising after the transfer which, had it arisen before the transfer, could properly have been paid out of the property transferred, but only if:
 - (a) there is nothing in the *instrument constituting the fund* of the *LTAF* expressly forbidding the payment; and
the *authorised fund manager* is of the opinion that proper provision was made for meeting such liabilities as were known or could reasonably have been anticipated at the time of the transfer.

Exemptions from liability to account for profits

- 15.8.15O **G**
- Except as provided in ■ COLL 15.8.3R (Profits from dealing as principal), an *affected person* is not liable to account to another *affected person* or to the *unitholders* of any *scheme* for any profits or benefits it makes or receives that are made or derived from or in connection with:
- (1) *dealings* in the *units* of a *scheme*; or
 - (2) any transaction in *scheme property*; or
 - (3) the supply of services to the *scheme*,

where disclosure of the non-accountability has been made in the *prospectus* of the *scheme*.

Allocation of scheme property

- 15.8.15P **R** For a *scheme* that is an *umbrella*, any assets to be received into, or any payments out of, the *scheme property* which are not attributable to one *sub-fund* only must be allocated by the *authorised fund manager* between the *sub-funds* in a manner that is fair to the *unitholders* of the *umbrella* generally.

Payments: limited protection LTAF classes

- 15.8.15Q **R**
- (1) This *rule* applies in relation to a *limited protection LTAF class* unless the provisions in ■ COLL 15.8.15EG to ■ COLL 15.8.15PR have been applied.
 - (2) Payments out of the *scheme property* may be made from *capital property* rather than from income, provided the basis for this is set out in the *prospectus*.

Movable or immovable property: ICVCs

- 15.8.16 **R** An *ICVC* must not incur any expense in respect of the use of any movable or immovable property unless the *scheme* is *dedicated* to such investment or such property is necessary for the direct pursuit of its business.
- (2) [deleted.]

Exemption from liability to account for profits

- 15.8.17 **G** Except as provided in ■ COLL 15.8.3R (Profits from dealing as principal), an *affected person* is not liable to account to another *affected person* or to the *unitholders* of the *scheme* for any profits or benefits it makes or receives that are made or derived from or in connection with:
- (1) *dealings* in the *units* of a *scheme*; or
 - (2) any transaction in *scheme property*; or
 - (3) the supply of services to the *scheme*;
where disclosure of the non-accountability has been made in the *prospectus* of the *scheme*.

Income

- 15.8.18 **R**
- (1) A *long-term asset fund* must have:
 - () an *annual accounting period*;
 - () a *half-yearly accounting period*; and
 - () an *accounting reference date*;
 the details of which must be set out in the *prospectus*.

- (2) ■ COLL 6.8.2R(2) to ■ COLL 6.8.2R(7) (Accounting periods) also apply to the *half-yearly accounting period* and *annual accounting period* of a *long-term asset fund*.
- (3) A *long-term asset fund* must have an *annual income allocation date*, which must be within four *months* of the *accounting reference date*.
- (4) A *long-term asset fund* may have an *interim income allocation date* and *interim accounting periods* and if it does, the *interim income allocation date* must be within a reasonable period of the end of the relevant *interim accounting period* as set out in the *prospectus*.
- (5) ■ COLL 6.8.3R(3) (Income allocation and distribution) to ■ COLL 6.8.3AG (Allocation of income to difference classes of unit) also apply to a *long-term asset fund*.

15.9 Operational requirements for feeder LTAFs

Application

- 15.9.1 **R** This section applies as follows:
- (1) ■ COLL 15.9.2R to ■ COLL 15.9.6R apply to the *authorised fund manager* of a *feeder LTAF*;
 - (2) ■ COLL 15.9.6R also applies to:
 - (a) an *ICVC* that is a *feeder LTAF*; and
 - (b) any *person* acting on behalf of either the *feeder LTAF* or the *authorised fund manager* of the *feeder LTAF*; and
 - (3) ■ COLL 15.9.7R applies to the *authorised fund manager* of a *long-term asset fund* which operates as a *qualifying master LTAF* to a *feeder LTAF*.

Pre-investment requirements of the authorised fund manager of a feeder LTAF

- 15.9.2 **R** Before investing in the *qualifying master LTAF*, the *authorised fund manager* of the *feeder LTAF* must:
- (1) be satisfied on reasonable grounds that it can obtain from the *qualifying master LTAF* all the information necessary to comply on an ongoing basis with the *rules* in *COLL*;
 - (2) having consulted with the *depository* of the *feeder LTAF*, be satisfied on reasonable grounds that the *depository* of the *feeder LTAF* can obtain from the *qualifying master LTAF*, the *operator* of the *qualifying master LTAF* or the *depository* of the *qualifying master LTAF* all the information necessary to comply with its duties under ■ COLL 15.7.6R and ■ COLL 15.7.7R (Duties of the depository); and
 - (3) inform the *authorised fund manager* of the *qualifying master LTAF* of the date on which the *feeder LTAF* will begin to invest into the *qualifying master LTAF* as a *feeder LTAF*.

Ownership of units in a feeder LTAF

- 15.9.3 **R** The *authorised fund manager* of a *feeder LTAF* must take reasonable care to ensure that its *units* are not owned, including beneficially owned, by the

qualifying master LTAF or any other *scheme* in which the *qualifying master LTAF* invests.

Charges made by the qualifying master LTAF or its operator to a feeder LTAF on investment or disposal

15.9.4

R

- (1) Where the *operator* or the *authorised fund manager* of a *qualifying master LTAF* imposes any charge which is, or is equivalent in effect to, a *preliminary charge* or *redemption charge* on the *feeder LTAF* for the acquisition or disposal of *units* in the *qualifying master LTAF*, the *authorised fund manager* of the *feeder LTAF* must pay to the *feeder LTAF* an amount equal to such charge within four *business days* following the relevant acquisition or disposal.
- (2) In this *rule*, where the *operator* or *authorised fund manager* of a *qualifying master LTAF* requires any addition to or deduction from the consideration paid on the acquisition or disposal of *units* in the *qualifying master LTAF* which is, or is equivalent in effect to, a *dilution levy* made in accordance with the *instrument constituting the fund* and the *prospectus*, it is to be treated as part of the *price* of the *units* and not as part of any *preliminary charge* or *redemption charge* referred to in (1).

Avoidance of opportunities for market timing

15.9.5

R

The *authorised fund manager* of a *feeder LTAF* must take appropriate measures to co-ordinate the timing of the *feeder LTAF's valuation points* and *dealing days* with those of its *qualifying master LTAF*, including the publication of *dealing prices*, in order to avoid market timing of their *units*, and prevent arbitrage opportunities.

Inducements

15.9.6

R

Where, in connection with an *investment* in the *units* of the *qualifying master LTAF*, a distribution fee, commission or other monetary benefit is received by:

- (1) a *feeder LTAF*;
 - (2) an *authorised fund manager* of a *feeder LTAF*; or
 - (3) any *person* acting on behalf of (1) or (2),
- that fee, commission or other monetary benefit must be paid into the *scheme property* of the *feeder LTAF* within four *business days* of receipt of that fee, commission or other monetary benefit.

Obligations to unitholders of a qualifying master LTAF

15.9.7

R

Where the *qualifying master LTAF* is an *authorised fund*, the *authorised fund manager* of the *qualifying master LTAF* must not, if it would unfairly prejudice the interests of *unitholders* of the *qualifying master LTAF* other than the *feeder LTAF*, provide or make available information to the *authorised fund manager* of the *feeder LTAF* without at the same time also providing or making available that information to the *unitholders* of the *qualifying master LTAF* other than the *feeder LTAF*.

15.10 Termination, suspension, and schemes of arrangement

Application

15.10.1 **R** This section applies to:

- (1) an *authorised fund manager* of an *AUT*, *ACS* or an *ICVC*;
- (2) any other *director* of an *ICVC*;
- (3) the *depository* of an *AUT*, *ACS* or an *ICVC*; and
- (4) an *ICVC*,
which is a *long-term asset fund*.

Termination

15.10.2 **R** For a *long-term asset fund* the provisions in ■ COLL 7.3 to ■ COLL 7.5 will apply as appropriate as if ■ COLL 7 applied to *long-term asset funds*.

Suspension

- 15.10.3 **R**
- (1) The *authorised fund manager* may, with the prior agreement of the *depository*, and must without delay, if the *depository* so requires, within any parameters which are fair and reasonable in respect of all the *unitholders* in the *scheme* and which are set out in the *prospectus*, temporarily suspend *dealings* in *units* of the *scheme*, a *sub-fund* or a *class*.
 - (2) Any suspension within (1) must only be where the *authorised fund manager* has determined that due to exceptional circumstances the suspension of *dealings* is in the interests of *unitholders* or potential *unitholders*, and the *authorised fund manager* must have regard to the interests of all the *unitholders* in the *scheme* in reaching such an opinion.
 - (3) At the commencement of suspension under (1), the *authorised fund manager* must immediately inform the *FCA* of the suspension and the reasons for it.
 - (4) The *authorised fund manager* must ensure that a notification of the suspension is made to *unitholders* of the *authorised fund* as soon as practicable after suspension commences, which:
 - (a) is clear, fair and not misleading;

draws *unitholders'* particular attention to the exceptional circumstance which resulted in the suspension; and

informs *unitholders* how to obtain the information detailed in (4A).

- (4A) The *authorised fund manager* must ensure that it publishes (on its website or by other general means) sufficient details to keep *unitholders* appropriately informed about the suspension including, if known, its likely duration.
- (5) The *authorised fund manager* and the *depository* must ensure that the suspension only continues for as long as it is justified having regard to the interests of the *unitholders*.
- (6) The suspension of dealings in units must cease, as soon as (2) no longer applies.
- (7) The *authorised fund manager* and the *depository* must formally review the suspension at least every 28 days and inform the *FCA* of the results of this review and any change to the information provided in (3).
- (8) The *authorised fund manager* must inform the *FCA* immediately of the resumption of *dealings*.

Schemes of arrangement

15.10.4

R

In relation to an *ICVC*, *ACS* or an *AUT* which is a *long-term asset fund*, the provisions in ■ COLL 7.6 (Schemes of arrangement) will apply as appropriate to the *authorised fund manager*, any other *directors* of the *ICVC* and the *depository* as if ■ COLL 7.6 applied to a *long-term asset fund* and did not exclude *unitholders* becoming *unitholders* in another *long-term asset fund*.

ACS Long-term asset funds: Eligible investors

This Annex belongs to COLL 15.1.3R and COLL 15.1.4G.

For the purposes of the *rule* on eligible investors in a *long-term asset fund* which is an *ACS* (see COLL 15.1.3R(2)), the *authorised contractual scheme manager* must take reasonable care to ensure that ownership of *units* in the *scheme* is only recorded in the *register* for a *person*:

- (1) who is a:
 - (a) *professional ACS investor*; or
 - (b) *large ACS investor*; or
 - (c) *person* who already holds *units* in the *scheme*; and
- (2) to whom *units* in a *long-term asset fund* may be promoted without contravening the *rules* in COBS 4.12A (Promotion of restricted mass market investments).

