

Chapter 4

Investor Relations

4.4 Meetings of Unitholders and service of notices

Application

4.4.1 **R** This section applies to an *authorised fund manager*, a *depository* and any other *director* of an *ICVC*.

4.4.1A **R** In this section:

- (1) a 'physical meeting' is a general meeting convened at a physical location where *unitholders*, or their proxy, must be physically present;
- (2) a 'hybrid meeting' is a general meeting which allows *unitholders*, or their proxy, to be physically present at the location where the meeting is convened, or to attend and vote remotely; and
- (3) a 'virtual meeting' is a general meeting where all *unitholders*, or their proxy, attend and vote remotely.

General meetings

- 4.4.2** **R**
- (1) The *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* may convene a general meeting of *unitholders* at any time.
 - (2) The *unitholders* may request the convening of a general meeting by a requisition which must:
 - (a) state the objects of the meeting;
 - (b) be dated;
 - (c) be signed by *unitholders* who, at that date, are registered as the *unitholders* of *units* representing not less than one-tenth in value (or such lower proportion stated in the *instrument constituting the fund*) of all of the *units* then in *issue*; and
 - (d) be deposited at the head office of the *ICVC* or with the *depository* of an *AUT* or *ACS*.
 - (3) The *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* must on receipt of a requisition that complies with (2), immediately convene a general meeting of the *authorised fund* for a date no later than eight weeks after receipt of the requisition.
 - (4) The advisory committee of a *charity authorised investment fund* may also request the convening of a general meeting of *unitholders* by giving notice in accordance with ■ **COLL 14.3.5R**.

4.4.2A **R** The *instrument constituting the fund* may make provision for a general meeting to be:

- (1) a *physical meeting*;
- (2) a *hybrid meeting*; or
- (3) a *virtual meeting*,
but in any event the *authorised fund manager* may hold a *virtual meeting* or a *hybrid meeting* if this is not inconsistent with any provisions in the *instrument constituting the fund*.

4.4.2B **R**

- (1) Any *unitholder* who participates remotely in a *hybrid meeting* by the means specified in the notice given under ■ COLL 4.4.5R is deemed to be present at the meeting and has the same rights as a *unitholder* who is physically present at the meeting.
- (2) Any *unitholder* who participates in a *virtual meeting* by the means specified in the notice given under ■ COLL 4.4.5R is deemed to be present at the meeting and has the same rights that the *unitholder* would have at a *physical meeting*.

4.4.2C **R** Any *unitholder* who participates remotely must be enabled to do so without having to appoint a proxy and must not be required to submit their vote on a resolution in advance of the meeting.

Class meetings

4.4.3 **R** This section applies, unless the context otherwise requires, to *class meetings* by reference to the *units* of the *class* concerned and the *unitholders* and *prices* of such *units*.

Special meaning of Unitholder in COLL 4.4

4.4.4 **R**

- (1) Unless a *unit* in the *authorised fund* is a *participating security*, in this section "*unitholders*" means *unitholders* as at a cut-off date selected by the *authorised fund manager* which is a reasonable time before notices of the relevant meeting are sent out.
- (2) If any *unit* in the *authorised fund* is a *participating security*, a registered *unitholder* of such a *unit* is entitled to receive a notice of a meeting or a notice of an adjourned meeting under ■ COLL 4.4.5 R (Notice of general meetings), if entered on the *register* at the close of business on a *day* to be determined by the *authorised fund manager*, which must not be more than 21 *days* before the notices of the meeting are sent out.
- (3) For the purposes of (2), in ■ COLL 4.4.6 R (Quorum) to ■ COLL 4.4.11 R (The chair, adjournments and minutes) "*unitholders*" in relation to those *units* means the *persons* entered on the *register* at a time to be determined by the *authorised fund manager* and stated in the notice of the meeting, which must not be more than 48 hours before the time fixed for the meeting.

Notice of general meetings

4.4.5

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- (1) Where the *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* decide to convene a general meeting of *unitholders*:
 - (a) each *unitholder* must be given at least 14 *days* written notice, inclusive of the date on which the notice is first served and the day of the meeting;
 - (b) the notice must specify:
 - (i) whether the meeting is to be a *physical meeting*, a *hybrid meeting* or a *virtual meeting*;
 - (ii) if the meeting is a *physical meeting* or a *hybrid meeting*, the place of the meeting;
 - (iii) if the meeting is a *hybrid meeting* or a *virtual meeting*, the means by which a *unitholder* may participate, including any requirements for *unitholders* to register before the meeting begins or to provide proof of their right to attend, and an explanation of how participating *unitholders* may vote in a show of hands or in a poll, if they do not appoint a proxy;
 - (iv) the day and hour of the meeting;
 - (v) the terms of the resolutions to be proposed; and
 - (vi) the address of the website where the minutes of the meeting will subsequently be published; and
 - (c) a copy of the notice must be sent to the *depository*.
- (2) The accidental omission to give notice to, or the non-receipt of notice by, any *unitholder* does not invalidate the proceedings at any meeting.
- (3) Notice of an adjourned meeting of *unitholders* must be given to each *unitholder*, stating that while two *unitholders* are required to be present – in person, by proxy or remotely – to constitute a quorum at the adjourned meeting, this may be reduced to one in accordance with ■ COLL 4.4.6R (3), should two such *unitholders* not be present after a reasonable time of convening of the meeting.
- (4) Paragraph (1)(a) does not apply to the notice of an adjourned meeting.
- (5) Where the meeting is a *hybrid meeting* or a *virtual meeting*, the *authorised fund manager* must take reasonable care to ensure that the necessary supporting technology to enable *unitholders* to attend and vote is in place at the start of the meeting and operates adequately throughout its proceedings, so that *unitholders* who attend or vote remotely are not unfairly disadvantaged.

Quorum

4.4.6

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- (1) The quorum required to conduct business at a meeting of *unitholders* is two *unitholders*, present in person, by proxy or (where applicable) remotely using the means specified in the notice given under ■ COLL 4.4.5R.

- (2) If after a reasonable time from the time for the start of the meeting, a quorum is not present, the meeting:
 - (a) if convened on the requisition of *unitholders*, must be dissolved; and
 - (b) in any other case, must stand adjourned to:
 - (i) a day and time which is seven or more *days* after the day and time of the meeting; and
 - (ii) in the case of a *physical meeting* or a *hybrid meeting*, a place to be appointed by the chair.
- (3) If, at an adjourned meeting under (2)(b), a quorum is not present after a reasonable time from the time for the meeting, one *person* entitled to be counted in a quorum present at the meeting shall constitute a quorum.
- (4) The chair of a meeting which permits *unitholders* to attend and vote remotely must take reasonable care to give such *unitholders*:
 - (a) an adequate opportunity to be counted as present in the quorum; and
 - (b) sufficient opportunities to participate fully in the proceedings of the meeting, in particular when a vote is taken on a show of hands or by poll.

Resolutions

4.4.7

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- (1) Except where an *extraordinary resolution* is specifically required or permitted, any resolution of *unitholders* is passed by a simple majority of the votes validly cast at a general meeting of *unitholders*.
- (2) In the case of an equality of, or an absence of, votes cast, the chair is entitled to a casting vote.
- (3) Where a resolution (including an *extraordinary resolution*) is required to conduct business at a meeting of *unitholders* and every *unitholder* is prohibited under ■ COLL 4.4.8R (4) from voting, it shall not be necessary to convene such a meeting and a resolution may, with the prior written agreement of the *depository* to the process, instead be passed with the written consent of *unitholders* representing 50% or more, or for an *extraordinary resolution* 75% or more, of the *units* of the *scheme* in *issue*.

Voting rights

4.4.8

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- (1) On a show of hands every *unitholder* who is present in person, or who attends the meeting remotely using the means specified in the notice in ■ COLL 4.4.5R, has one vote.
- (2) On a poll:
 - (a) votes may be given either personally or by proxy or in another manner permitted by the *instrument constituting the fund*;
 - (b) the voting rights for each *unit* must be the proportion of the voting rights attached to all of the *units* in *issue* that the *price* of

the *unit* bears to the aggregate *price* or *prices* of all of the *units* in *issue*:

- (i) if any *unit* is a *participating security*, at the time determined under ■ COLL 4.4.4R (2) (Special meaning of Unitholder in ■ COLL 4.4);
 - (ii) otherwise at the date specified in ■ COLL 4.4.4R (1); and
- (c) a *unitholder* need not use all his votes or cast all his votes in the same way.
- (3) For joint *unitholders*, the vote of the most senior who votes, whether in person, by proxy or remotely by the means referred to in (1), must be accepted to the exclusion of the votes of the other joint *unitholders*. For this purpose seniority must be determined by the order in which the names stand in the *register of unitholders*.
- (4) No *director* of the *ICVC* or the *authorised fund manager* of an *AUT* or *ACS* can be counted in the quorum of, and no such *director* or the *authorised fund manager* of an *AUT* or *ACS* nor any of their *associates* may vote at, any meeting of the *authorised fund*.
- (5) The prohibition in (4) does not apply to any *units* held on behalf of, or jointly with, a *person* who, if himself the registered *unitholder*, would be entitled to vote and from whom the *director*, the *authorised fund manager* of an *AUT* or *ACS* or its *associate* have received voting instructions.
- (6) For the purpose of this section, *units* held, or treated as held, by the *authorised fund manager* or any other *director* of the *ICVC*, must not, except as mentioned in (5), be regarded as being in *issue*.

Right to demand a poll

4.4.9

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- (1) A resolution put to the vote of a general meeting must be determined on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:
- (a) the chair;
 - (b) at least two *unitholders*; or
 - (c) the *depository*.
- (2) Unless a poll is demanded in accordance with (1), a declaration by the chair as to the result of a resolution is conclusive evidence of the fact.

Proxies

4.4.10

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- (1) A *unitholder* may appoint another *person* to attend a general meeting and vote in his place.
- (2) Unless the *instrument constituting the fund* provides otherwise, a *unitholder* may appoint more than one proxy to attend on the same occasion but a proxy may vote only on a poll.
- (3) Every notice calling a meeting of a *scheme* must contain a reasonably prominent statement that a *unitholder* entitled to attend and vote may appoint a proxy.

- (4) For the appointment to be effective, any *document* relating to the appointment of a proxy must not be required to be received by the ICVC or any other *person* more than 48 hours before the meeting or adjourned meeting

The chair, adjournment and minutes

4.4.11

R

- (1) A meeting of *unitholders* must have a chair, nominated:
- (a) in the case of an *AUT* or *ACS*, by the *depository*;
 - (b) in the case of an *ICVC*, by a *director* other than the *ACD* or an *associate* of the *ACD* or, if no such nomination is made, by the *depository*.
- (1) In the case of a *physical meeting* or a *hybrid meeting*, the chair must be physically present at the place of the meeting.
- (2) If the chair is not present after a reasonable time from the time for the meeting, the *unitholders* present must (subject to (1A)) choose one of them to be the chair.
- (3) The chair:
- (a) may, with the consent of any meeting of *unitholders* at which a quorum is present; and
 - (b) must, if so directed by the meeting;

adjourn the meeting from time to time and from place to place, provided that any arrangements to enable remote participation at the original meeting are replicated for any adjourned meeting.
- (4) Business must not be transacted at any adjourned meeting, except business which might have lawfully been transacted at the original meeting.
- (5) The *authorised fund manager* must ensure that:
- (a) minutes of all resolutions and proceedings at every meeting of *unitholders* are made and kept; and
 - (b) any minute made in (a) is signed by the chair of the meeting of *unitholders*.
- (6) Any minute referred to in (5)(b) is conclusive evidence of the matters stated in it.
- (7) The *authorised fund manager* must publish the minutes on a website accessible to the general public without charge, no later than 5 *business days* after the meeting has taken place (but in the case of an original meeting which is adjourned, the minutes must be published no later than 5 *business days* after the adjourned meeting has taken place).

Notices to unitholders

4.4.12

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- (1) Where this sourcebook requires any notice or *document* to be served upon a *unitholder*, it is duly served :

- (a) for *units* held by a registered *unitholder*, if it is:
 - (i) sent by post to or left at the *unitholder's* address as appearing in the *register*; or
 - (ii) sent by using an electronic medium in accordance with ■ COLL 4.4.13 R (Other notices).
- (b) [deleted]

- (2) Any notice or *document* served by post is deemed to have been served on the second *business day* following the *day* on which it is posted.
- (3) Any *document* left at a registered address or delivered other than by post is deemed to have been served on that *day*.
- (4) Any notice or *document* served by post on one joint *unitholder* is deemed to also have been served on each other joint *unitholder* whose address, as appearing on the *register*, is the same address to which the notice or *document* was sent.

Other notices

4.4.13

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- (1) Any *document* or notice to be served on or information to be given to, any *person*, including the *FCA*, must be in legible form.
- (2) For the purposes of this *rule*, any form is legible form which:
 - (a) is consistent with the *ICVC's*, the *directors'*, the *authorised fund manager's* or the *depository's* knowledge of how the recipient of the *document* wishes or expects to receive the *document*;
 - (b) is capable of being provided in hard copy by the *authorised fund manager*, the *depository* or any other *director* of the *ICVC*;
 - (c) enables the recipient to know or record the time of receipt; and
 - (d) is reasonable in the context.
- (3) (a) In this sourcebook, any requirement that a *document* be signed may be satisfied by an electronic signature or electronic evidence of assent.
- (b) In relation to an *AUT* or *ACS*, where transfer of title to *units* is to be effected on the authority of an *electronic communication*, the *authorised fund manager* must take reasonable steps to ensure that any *electronic communication* purporting to be made by the *unitholder* or his agent is in fact made by that *person*.

References to writing and electronic documents

4.4.14

G

In this sourcebook references to writing and the use of electronic media should be construed in accordance with ■ GEN 2.2.14 R (References to writing) and its related *guidance* provisions.

Service of notice Regulations

4.4.15

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The provisions in this section relating to the service and delivery of notices and *documents* both to *unitholders* and to the *FCA* , disapply the provisions of The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) under the power in Regulation 1(6) of those Regulations.