

Chapter 7

Suspension of dealings,
termination of authorised
funds and side pockets

7.5 Schemes or sub-funds that are not commercially viable

Explanation of this section

7.5.1

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- (1) The *FCA* expects that the majority of requests it will receive for the winding up of an *authorised fund* (under regulation 21(1) of the *OEIC Regulations* or under sections 256 or 261W of the *Act*) or termination of a *sub-fund* will be from *authorised fund managers* and *depositories* who consider that the *AUT*, *ACS*, *ICVC* or *sub-fund* in question is no longer commercially viable.
- (2) It is in *consumers'* interests to minimise, as far as possible, the period between which the *FCA* receives such requests and responds to them. To assist the *FCA* in arriving at a quick decision, based on all the relevant factors, it would be helpful for the *FCA* to receive the information listed at ■ COLL 7.5.2 G. Further information, however, may be requested by the *FCA* after receipt of the information, depending on the individual circumstances of the case.

Information to be provided to the FCA

7.5.2

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The information referred to in ■ COLL 7.5.1 G is listed below:

- (1) the name of the *authorised fund* or *sub-fund*;
- (2) the size of the *authorised fund* or *sub-fund*;
- (3) the number of *unitholders*;
- (4) whether dealing in *units* has been suspended;
- (5) why the request is being made;
- (6) what consideration has been given to the *authorised fund* or *sub-fund* entering into a *scheme of arrangement* with another *regulated collective investment scheme* and the reasons why a *scheme of arrangement* is not feasible;
 - (7) (a) whether *unitholders* have been informed of the intention to seek termination, winding up or revocation; and
 - (b) if not, when they will be informed;
- (8) details of any proposed preferential switching rights offered or to be offered to *unitholders*;

- (9) details of any proposed rebate of charges to be made to *unitholders* who recently purchased *units*;
- (10) where the costs of winding up or termination will fall;
- (11) the *depository's*:
 - (a) statement whether having taken reasonable care it is certain that a *scheme of arrangement* is not feasible and explaining what steps have been considered that would result in the *authorised fund* or *sub-fund* not needing to wind up or terminate (for example, appointing a replacement *authorised fund manager*); and
 - (b) confirmation that it will not or does not expect to qualify a report made in accordance with ■ COLL 4.5.11 R (Report of the depository);
- (12) the preferred date for the *FCA's* determination to revoke authorisation or the date for the commencement of the winding up or termination; and
- (13) any additional information or material considered to be relevant to the *FCA's* decision under sections 251, 256, 261Q and 261W of the *Act* or regulation 21 of the *OEIC Regulations* (as appropriate).