

**LISTING RULES (INVESTMENT ENTITIES INTERIM REGIME) (AMENDMENT)
INSTRUMENT 2007**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in the following sections of the Financial Services and Markets Act 2000:
- (1) section 73A (Part 6 rules);
 - (2) section 79 (Listing particulars and other documents);
 - (3) section 96 (Obligations of issuers of listed securities);
 - (4) section 101 (Listing rules: general provisions);
 - (5) section 157(1) (Guidance); and
 - (6) Schedule 7 (The Authority as Competent Authority for Part VI).

Commencement

- B. This instrument comes into force on 28 September 2007.

Amendments to the Handbook

- C. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- D. The Listing Rules (LR) are amended in accordance with Annex B to this instrument.

Citation

- E. This instrument may be cited as the Listing Rules (Investment Entities Interim Regime) (Amendment) Instrument 2007.

By order of the Board
28 June 2007

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text. Where new definitions are being inserted, the text is not underlined.

Delete the following definition from the Glossary:

investment company

Insert the following definition in the appropriate alphabetical position:

closed-ended investment fund (in *LR*) an entity:

- (a) which is an undertaking with limited liability, including a company, limited partnership, or *limited liability partnership*; and
- (b) whose primary object is investing and managing its assets (including pooled funds contributed by holders of its *listed securities*):
 - (i) in property of any description; and
 - (ii) with a view to spreading investment risk.

Amend the following definitions as shown:

investment manager (1) (except in *LR*) a person who, acting only on behalf of a client:

- (a) ...
- (b) ...

(2) (in *LR*) a person who, on behalf of a client, manages investments and is not a wholly-owned subsidiary of the client.

...

*property investment
company*

~~(1)~~ (in *CIS*) a *body corporate*, a substantial activity of which relates to *permitted immovables* (whether by way of investing, dealing in, developing, redeveloping or refurbishing them and whether directly or indirectly).

~~(1)~~ (in *LR*) an *investment company* or an *investment trust* which invests or intends to invest 20% or more of its gross assets directly in *property* and satisfies the requirements of LR 15.5 in addition to any other relevant requirements of LR 15.

Annex B

Amendments to the Listing Rules (LR)

In this Annex, except where otherwise stated, underlining indicates new text and striking through indicates deleted text.

...

Reconstruction or refinancing

9.5.12 R ...

- (2) The requirement for a working capital statement set out in paragraph (1) does not apply to a ~~venture capital trust or an investment entity listed in accordance with LR 15:~~ closed-ended investment fund.

...

Purchase of own equity securities

13.7.1 (1) ...

(2) ...

- (f) Annex 3 item 3.1 - Working capital (this must be based on the assumption that the authority sought will be used in full at the maximum price allowed and this assumption must be stated). This information is not required to be included in a circular issued by a closed-ended investment fund.

...

LR13 Annex 1 R

Class 1 circulars

...	
3	The information required by the Annex is modified as follows:
	...
(3)	information referred to in Annex 3 item 3.1 (Working capital) is not required to be included in a <i>class 1 circular</i> if the listed company is an investment entity referred to in LR 15.1.1 R or a venture capital trust. <u>published by a closed-ended investment fund.</u>

Delete chapters LR 15 and LR 16 and replace them with the following new text. All the text is new and is not underlined.

15 Closed-Ended Investment Funds

15.1 Application

15.1.1 R This chapter applies to a *closed-ended investment fund* applying for, or with, a *primary listing of equity securities*.

15.2 Requirements for listing

15.2.1 R To be *listed*, an *applicant* must comply with:

- (1) *LR 2* (Requirements for listing);
- (2) only the following provisions of *LR 6* (Additional requirements for listing for equity securities);
 - (a) *LR 6.1.3R(1)(d)* and (e), if the *applicant* is a *new applicant* for the *admission of shares or securities* convertible into its own *shares* and it has published or filed audited accounts;
 - (b) *LR 6.1.3R(2)*;
 - (c) *LR 6.1.16R* to *LR 6.1.24G*; and
- (3) *LR 15.2.2R* to *LR 15.2.13G*.

Investment activity

15.2.2 R An *applicant* must invest and manage its assets in a way which is consistent with its object of spreading investment risk.

Control of investee companies

15.2.3 G Although there is no restriction on a *closed-ended investment fund* taking a controlling stake in an investee company, to ensure a spread of investment risk a *closed-ended investment fund* should avoid:

- (1) cross-financing between the businesses forming part of its investment portfolio including, for example, through the provision of undertakings or security for borrowings by such businesses for the benefit of another; and
- (2) the operation of common treasury functions as between the *closed-ended investment fund* and investee companies.

Trading activity

15.2.4 R (1) A *closed-ended investment fund* and its subsidiaries must not conduct any trading activity which is significant in the context of its *group* as a

whole.

- (2) This rule does not prevent the businesses forming part of the investment portfolio of the *closed-ended investment fund* from conducting trading activities themselves.

Cross-holdings

- 15.2.5 R (1) No more than 10%, in aggregate, of the value of the total assets of a *closed-ended investment fund* at admission may be invested in other *listed closed-ended investment funds*.
- (2) The restriction in (1) does not apply to *investments* in *closed-ended investment funds* which themselves have published investment policies to invest no more than 15% of their total assets in other *listed closed-ended investment funds*.

Feeder funds

- 15.2.6 R If an *applicant* principally invests its funds in another *company* or fund (“A”) and A invests in a portfolio of *investments*, the *applicant* must control the investment policy of A and ensure that A complies with the requirements relating to the spread of investment risk set out in this chapter (see LR 15.2.2R to LR 15.2.5R).

Investment policy

- 15.2.7 R An *applicant* must have a published investment policy that contains information about the policies which the *closed-ended investment fund* will follow relating to asset allocation, risk diversification, and gearing, and that includes maximum exposures.
- 15.2.8 G The information in the investment policy, including quantitative information concerning the exposures mentioned in LR 15.2.7R, should be sufficiently precise and clear as to enable an investor to:
- (1) assess the investment opportunity;
 - (2) identify how the objective of risk spreading is to be achieved; and
 - (3) assess the significance of any proposed change of investment policy.

Sufficient and appropriate experience of directors and investment managers

- 15.2.9 R An *applicant* must ensure that, collectively, its *directors* and *investment managers* have sufficient and appropriate experience in the management of assets on a scale and type in which the *applicant* proposes to invest.
- 15.2.10 G (1) An *applicant* is likely to have sufficient and appropriate experience if:
- (a) its assets are or will be managed by a *person* or *persons* who have permission from the *FSA* or from a *competent authority* to

manage *investments*; or

(b) it can otherwise demonstrate that the *persons* who will have responsibility for managing its assets have appropriate experience (over at least the preceding three years) of managing a portfolio of assets which is comparable to its portfolio.

(2) An *applicant* will have appropriate experience under (1)(b) if the *persons* within the entity responsible for managing the assets have managed a portfolio of *investments* that has a value of at least 50% of the funds the *applicant* is proposing to raise.

Independence

15.2.11 R The board of *directors* or equivalent body of the *applicant* must be able to act independently of any *investment manager* appointed to manage *investments* of the *applicant*.

15.2.12 G To satisfy LR 15.2.11R a majority of the board or equivalent body of the *applicant* (including the Chairman) should not be:

(1) *directors, employees, partners, officers or professional advisers* of or to:

(a) an *investment manager* of the *applicant*; or

(b) any other *company* in the same *group* as the *investment manager* of the *applicant*; or

(2) *directors, employees* or professional advisers of or to other *investment entities* that are:

(a) managed by the same *investment manager* as the *investment manager* to the *applicant*; or

(b) managed by any other *company* in the same *group* as the *investment manager* to the *applicant*.

15.2.13 G To comply with LR 15.2.11R:

(1) the board of the *applicant* should have no more than one *director* who is also a *director, partner, employee* or professional adviser of or to:

(a) the *investment manager* to the *applicant*; or

(b) any other *company* in the same *group* as the *investment manager* to the *applicant*; and

(2) a *director* described in (1) should be subject to annual re-election by *shareholders*.

15.3 Listing applications and procedures

15.3.1 G An *applicant* is required to comply with LR 3 (Listing applications).

Sponsors

15.3.2 G An *applicant* that is seeking *admission* of its *equity securities* is required to retain a *sponsor* in accordance with LR 8 (Sponsors).

15.3.3 R In addition to the circumstances set out in LR 8.2.1R when a *sponsor* must be appointed, an *applicant* must appoint a *sponsor* on each occasion that it makes an application for *admission* of *equity securities* which requires the production of *listing particulars*.

Multi-class fund or umbrella fund

15.3.4 R An application for the *listing* of *securities* of a multi-class fund or umbrella fund must provide details of the various classes or designations of *securities* intended to be issued by the *applicant*.

15.4 Continuing obligations

Compliance with LR 9

15.4.1 R A *closed-ended investment fund* must comply with all of the requirements of LR 9 (Continuing obligations) subject to the modifications and additional requirements set out in this section.

Investment activity and compliance with investment policy

15.4.2 R A *close-ended investment fund* must, at all times, invest and manage its assets:

- (1) in a way which is consistent with its object of spreading investment risk; and
- (2) in accordance with its published investment policy.

Control of investee companies

15.4.3 G A *closed-ended investment fund* should have regard to the guidance in LR 15.2.3G at all times.

Trading activity

15.4.4 R A *closed-ended investment fund* must comply with LR 15.2.4R at all times.

Cross-holdings

15.4.5 R A *closed-ended investment fund* must, when making an acquisition of a constituent investment, observe the principles relating to cross-holdings in LR 15.2.5R.

Feeder funds

- 15.4.6 R If a *closed-ended investment fund* principally invests its funds in another *company* or fund ("A") and A invests in a portfolio of *investments*, the *closed-ended investment fund* must ensure that LR 15.2.6R is complied with at all times.

Independence

- 15.4.7 R LR 15.2.11R – LR 15.2.13G apply at all times to a *closed-ended investment fund*.

Shareholder approval for material changes to investment policy

- 15.4.8 R A *closed-ended investment fund* must obtain the prior approval of the holders of the majority of its ordinary *equity shares* to any material change to its published investment policy.
- 15.4.9 G In considering what is a material change to the published investment policy, the *closed-ended investment fund* should have regard to the cumulative effect of all the changes since its *shareholders* last had the opportunity to vote on the investment policy or, if they have never voted, since the *admission to listing*.

Conversion of an existing listed class of equity securities

- 15.4.10 R An existing *listed class* of *equity securities* may not be converted into a new *class* or an *unlisted class* unless prior approval has been given by the holders of the majority of the *closed-ended investment fund's* ordinary *equity shares* in that existing *class*.

Further issues

- 15.4.11 R (1) Unless authorised by the holders of the majority of its *shares*, a *closed-ended investment fund* may not issue further *shares* of the same class as existing *shares* (including issues of *treasury shares*) for cash at a price below the net asset value per *share* of those *shares* unless they are first offered pro rata to existing holders of *shares* of that class.
- (2) When calculating the net asset value per *share*, *treasury shares* held by the *closed-ended investment fund* should not be taken into account.

15.5 Transactions

Compliance with the Model Code

- 15.5.1 R (1) A *closed-ended investment fund* must comply with the provisions of the *Model Code*.
- (2) LR 9.2.7R to LR 9.2.10R do not apply to a *closed-ended investment fund*.

- (3) Paragraph (1) does not apply to:
- (a) dealings by *persons discharging managerial responsibilities* in the *closed-ended investment fund*;
 - (b) purchases by the *closed-ended investment fund* of its own *securities*; and
 - (c) sales of *treasury shares* for cash or transfers (except for sales and transfers by the *closed-ended investment fund* of *treasury shares* in the circumstances set out in *LR 12.6.2R*);
- if the *closed-ended investment fund* satisfies the requirements of (4).
- (4) The transactions described in (3) may be entered into during a *close period* if:
- (a) the *closed-ended investment fund* is satisfied that all *inside information* which the *directors* and the entity may have in periods leading up to an announcement of results has previously been notified to a *RIS*; and
 - (b) the *closed-ended investment fund* notifies a *RIS* that it is satisfied that all *inside information* has previously been notified.

Significant transactions

- 15.5.2 R A *closed-ended investment fund* must comply with *LR 10* (Significant transactions), except in relation to transactions that are executed in accordance with the scope of its published investment policy.

Transactions with related parties

- 15.5.3 G *LR 11* (Related party transactions) applies to a *closed-ended investment fund*.
- 15.5.4 R In addition to the definition in *LR 11.1.4 R* a *related party* includes any *investment manager* of the *closed-ended investment fund*.

15.6 Notifications and periodic financial information

Changes to tax status

- 15.6.1 R A *closed-ended investment fund* must notify any change in its taxation status to a *RIS* as soon as possible.

Annual financial report

- 15.6.2 R In addition to the requirements in *LR 9.8* (Annual financial report), a *closed-ended investment fund* must include in its annual financial report:
- (1) a statement (including a quantitative analysis) explaining how it has

invested its assets with a view to spreading investment risk in accordance with its published investment policy;

- (2) a statement, set out in a prominent position, as to whether in the opinion of the *directors*, the continuing appointment of the *investment manager* on the terms agreed is in the interests of its shareholders as a whole, together with a statement of the reasons for this view;
- (3) a summary of the principal contents of any agreements between the *closed-ended investment fund* and each of the *investment managers*, including but not limited to any provisions relating to compensation payable in the event of termination of the agreement;
- (4) the name of the *investment managers* together with an indication of the terms and duration of their appointment, the basis for their remuneration and any arrangements relating to the termination of their appointment;
- (5) the full text of its *investment policy*; and
- (6) a comprehensive and meaningful analysis of its portfolio.

Annual financial report – additional requirements for property investment entities

- 15.6.3 R A *closed-ended investment fund* that, as at the end of its financial year, has invested more than 20% of its assets in *property* must include in its annual financial report a summary of the valuation of its portfolio, carried out in accordance with *LR 15.6.4R*.
- 15.6.4 R A valuation required by *LR 15.6.3R* must:
- (1) either:
 - (a) be made in accordance with the Appraisal and Valuation Standards (5th edition) issued by the Royal Institution of Chartered Surveyors; or
 - (b) where the valuation does not comply in all applicable respects with the Appraisal and Valuation Standards (5th edition) issued by the Royal Institution of Chartered Surveyors, include a statement which sets out a full explanation of such non-compliance; and
 - (2) be carried out by an external valuer as defined in the Appraisal and Valuation Standards (5th edition) issued by the Royal Institution of Chartered Surveyors.
- 15.6.5 R The summary described in *LR 15.6.3R* must include:
- (1) the total value of *properties* held at the year end;
 - (2) totals of the cost of *properties* acquired;

- (3) the net book value of *properties* disposed of during the year; and
- (4) an indication of the geographical location and type of *properties* held at the year end.

Statement regarding compliance with Combined Code

- 15.6.6 R (1) This *rule* applies to a *closed-ended investment fund* that has no executive *directors*.
- (2) A *closed-ended investment fund's* statement required by LR 9.8.6R(6) need not include details about the following principles and provisions of the *Combined Code* except to the extent that those principles or provisions relate specifically to non-executive *directors*:
- (a) Principle B.1 (including Code Provisions B.1.1 to B.1.6); and
 - (b) Principle B.2 (including Code Provisions B.2.1 to B.2.4).

Annual financial and half yearly report

- 15.6.7 R In addition to the requirements in LR 9 (Continuing obligations), half-yearly reports and, if applicable, preliminary statements of annual results must include information showing the split between:
- (1) dividend and interest received; and
 - (2) other forms of income (including income of associated companies).

Notification of investments

- 15.6.8 R A *closed-ended investment fund* must notify a *RIS* of the following:
- (1) within two *business days* of the end of each calendar *month*, a list of all investments in other *listed closed-ended investment funds*, as at the last *business day* of that *month*, which themselves do not have stated investment policies to invest no more than 15% of their total assets in other *listed closed-ended investment funds*; and
 - (2) within two *business days* of the end of each quarter, a list of all investments with a value greater than 5% of the *closed-ended investment fund's* total assets and at least the 10 largest investments as at the last *business day* of that quarter.

16 Open-ended investment companies

16.1 Application

- 16.1.1 R This chapter applies to an *open-ended investment company* applying for, or with, a *primary listing* of *equity securities* which is:

- (1) an *ICVC* that has been granted an *authorisation order* by the *FSA*; or
- (2) an *overseas collective investment scheme* that is a *recognised scheme*.

16.2 Requirements and eligibility for listing

- 16.2.1 R To be *listed*, an *applicant* must comply with:
- (1) *LR 2* (Requirements for listing); and
 - (2) only *LR 6.1.22R* to *LR 6.1.24R* of *LR 6* (Additional requirements for listing for equity securities).

16.3 Listing applications

- 16.3.1 G An *applicant* for admission is required to comply with *LR 3* (Listing applications).
- 16.3.2 G The *FSA* will admit to *listing* such number of *securities* as the *applicant* may request for the purpose of future issues. At the time of issue the *securities* will be designated to the relevant *class*.

Sponsors

- 16.3.3 G An *applicant* that is seeking *admission* of its *equity securities* must retain a *sponsor* in accordance with *LR 8* (Sponsors).
- 16.3.4 R In addition to the circumstances set out in *LR 8.2.1R* when a *sponsor* must be appointed, an *applicant* must appoint a *sponsor* when it makes an application for *admission* of *equity securities* which requires the production of *listing particulars*.
- 16.3.5 G *LR 8.4.5R(3)* is modified to require the notification of interests of 10% or more for an *open-ended investment company*.

Multi-class fund or umbrella fund

- 16.3.6 R An *applicant* which is a multi-class or umbrella fund which seeks to create a new *class* of *security* without increasing its share capital for which *listing* has previously been granted, must provide the *FSA* with the details of the new *class* and no further application for *listing* is required.

16.4 Requirements with continuing application

- 16.4.1 R An *open-ended investment company* must comply with:
- (1) *LR 9* (Continuing obligations) except *LR 9.2.6B*;
 - (2) *LR 15.5.1R*; and
 - (3) *LR 15.6.1R*.

- 16.4.2 R *LR 15.6.6R applies to an open-ended investment company if it has no executive directors.*
- 16.4.3 R The interests of a single *person* or entity which exceeds 10% of the issued *shares* (calculated exclusive of *treasury shares*) of any *class* of *share* in the capital of the *open-ended investment company* must, so far as they are known to it, be notified to a *RIS* as soon as possible following the *open-ended investment company* becoming aware of those interests.
- 16.4.4 R *LR 10* (Significant transactions) and *LR 12* (Dealing in own securities and treasury shares) do not apply to an *open-ended investment company*.

Appendix 1

Relevant definitions

1.1 Relevant Definitions

App ...
1.1.1 ...

closed-ended investment fund

an entity:

- (a) which is an undertaking with limited liability, including a company, limited partnership, or *limited liability partnership*; and
- (b) whose primary object is investing and managing its assets (including pooled funds contributed by holders of its *listed securities*):
 - (i) in property of any description; and
 - (ii) with a view to spreading investment risk.

...

investment company

~~a company whose object is to invest its funds wholly or mainly in:~~

- (a) ~~any of the following *investments* specified in the *Regulated Activities Order*:~~
 - (i) ~~*share* (article 76);~~
 - (ii) ~~*debenture* (article 77);~~
 - (iii) ~~*government and public security* (article 78);~~

- (iv) ~~warrant (article 79);~~
- (v) ~~certificate representing certain securities (article 80);~~
- (vi) ~~unit (article 81);~~
- (vii) ~~option (article 83);~~
- (viii) ~~future (article 84);~~
- (ix) ~~contract for differences (article 85);~~
- (x) ~~rights to or interests in investments in (i) to (ix) (article 89);~~

- (b) ~~interests in partnership arrangements, participations, joint ventures and other forms of non-corporate investment provided that the conditions of listing are met; or~~
- (c) ~~interests in any other property provided that the relevant requirements of this chapter are met;~~

~~with the object of spreading investment risk and managing its portfolio for the benefit of its shareholders.~~

...

investment manager

~~a person who, acting only on behalf of a client, manages investments; and is not a wholly-owned subsidiary of the client.~~

- (a) ~~manages designated investments in an account or portfolio on a discretionary basis under the terms of a discretionary management agreement; or~~
- (b) ~~manages designated investments in an account or portfolio on a non-discretionary basis under the terms of a non-discretionary management agreement.~~

...

property investment company

~~an investment company or an investment trust which invests or intends to invests 20% or more of its gross assets directly in property and satisfies the requirements of LR 15.5 in addition to any other relevant requirements of LR 15.~~

LR TR Transitional Provisions for Sponsors and Venture Capital Trusts

...

Transitional Provisions for venture capital trusts

(1)	(2) <u>Material to which the Transitional provisions applies</u>	(3)	(4) <u>Transitional provision</u>	(5) <u>Transitional Provision: dates in force</u>	(6) <u>Handbook Provision coming into force</u>
<u>2</u>	<u>LR 15.2.11R – LR 15.2.13G and LR 15.4.7R</u>	<u>R</u>	<u>Do not apply in respect of a <i>venture capital trust</i> listed before the date this instrument comes into force.</u>	<u>From 28 September 2007 to 28 September 2010</u>	<u>28 September 2007</u>
<u>3</u>	<u>LR 15.6.8R</u>	<u>R</u>	<u>Does not apply in respect of a <i>venture capital trust</i> listed before the date this instrument comes into force.</u>	<u>From 28 September 2007 to 28 September 2010</u>	<u>28 September 2007</u>
<u>4</u>	<u>LR 11.1.5R(2)</u>	<u>R</u>	<u>Does not apply to arrangements between a <i>venture capital trust</i> and its <i>investment manager</i> where:</u> <u>(1) the arrangements are such that each invests in or provides finance to a <i>company</i> and the investment or provision of finance is made either</u> <u>(a) at the same time and on the same terms; or</u> <u>(b) in accordance with a pre-existing agreement between the <i>venture capital trust</i> and its <i>investment manager</i>;</u> <u>and</u> <u>(2) the <i>venture capital trust</i> was listed before the date this instrument comes into force.</u>	<u>From 28 September 2007 to 28 September 2010</u>	<u>28 September 2007</u>