

COLLECTIVE INVESTMENT SCHEMES SOURCEBOOK (SUSPENSION OF DEALINGS) INSTRUMENT 2008

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 139(4) (Miscellaneous ancillary matters);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance); and
 - (e) section 247 (Trust scheme rules); and
 - (2) regulation 6(1) (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 January 2009.

Amendments to the Handbook

- D. The Collective Investment Schemes sourcebook (COLL) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Collective Investment Schemes Sourcebook (Suspension of Dealings) Instrument 2008.

By order of the Board
4 December 2008

Annex

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text.

7.2 Suspension and restart of dealings

Requirement

- 7.2.1 R (1) The *authorised fund manager* may, with the prior agreement of the *depository*, and must without delay, if the *depository* so requires, temporarily suspend the *issue, cancellation, sale and redemption of units* in an *authorised fund* (referred to in this chapter as “*dealings in units*”), where due to exceptional circumstances it is in the interest of all the *unitholders* in the *authorised fund*.
- (1A) The *authorised fund manager* and the *depository* must ensure that the suspension is only allowed to continue for as long as it is justified having regard to the interests of the *unitholders*.
- ...
- (2A) 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.
- (2B) In making the notification set out in (2A), the *authorised fund manager* must ensure that it:
- (a) draws *unitholders*' particular attention to the exceptional circumstance which resulted in the suspension;
 - (b) is clear, fair and not misleading; and
 - (c) informs *unitholders* how to obtain the information detailed in (2C).
- (2C) 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.
- (3) During a suspension,;
- (a) none of the obligations in *COLL 6.2 (Dealing)* ~~and *COLL 6.3 (Valuation and pricing)*~~ apply; and
 - (b) the *authorised fund manager* must comply with as much of *COLL 6.3 (Valuation and pricing)* as is practicable in the

light of the suspension.

(4) The suspension of *dealings in units* must cease as soon as practicable after the exceptional circumstances referred to in (1) have ceased ~~and, in any event, within 28 days of the commencement of the suspension.~~

(4A) The authorised fund manager and the depositary must formally review the suspension at least every 28 days and inform the FSA of the results of this review and any change to the information provided in (2).

...

(6) The *authorised fund manager* may agree, during the suspension, to deal in units in which case all deals accepted during, and outstanding prior to, the suspension will be undertaken at a price calculated by reference to at the first valuation point after the restart of *dealings dealing in units*, subject to (8).

...

Guidance

- 7.2.2 G (1) Suspension should be allowed only in exceptional cases where circumstances so require and suspension is justified having regard to the interests of the *unitholders*. Difficulties in realising scheme assets or temporary shortfalls in liquidity may not on their own be sufficient justification for suspension. In such circumstances the *authorised fund manager* and *depositary* would need to be confident that suspension could be demonstrated genuinely to be in the best interests of the *unitholders*. Before an *authorised fund manager* and *depositary* determines that it is the best interests of *unitholders* to suspend *dealing*, it should ensure that any alternative courses of action have been discounted.
- (2) The *authorised fund manager* will need to ensure that any suspension, while maintaining *unitholders*' interests, is temporary, of minimal duration and is consistent with the provisions of the *prospectus* and the *instrument constituting the scheme*.
- (3) During a suspension, the *authorised fund manager* should inform any *person* who requests a *sale or redemption of units* that all *dealings in units* have been suspended and that that *person* has the option to withdraw the request during the period of suspension or have the request executed at the first opportunity after the suspension ends.

...

- 8.6.3 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*.

...

(3A) 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.

(3B) 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*.

...

(4) The suspension of *dealings* in *units* must cease ~~within 28 days of its commencement or, if earlier,~~ as soon as (2) no longer applies.

(4A) The *authorised fund manager* and the *depository* must formally review the suspension at least every 28 days and inform the *FSA* of the results of this review and any change to the information provided in (3).

...

Suspension

8.6.4 G Under section 257 of the *Act* (Directions) the *FSA* may at its option extend the suspension of *dealings* in *units* beyond 28 days of the commencement of suspension. [deleted]