

**EXITING THE EUROPEAN UNION: SPECIALIST SOURCEBOOKS
(AMENDMENTS) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) regulation 3 of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018; and
 - (2) section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

Amendments to the Handbook

- C. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Collective Investment Schemes sourcebook (COLL)	Annex A
Credit Unions sourcebook (CREDS)	Annex B
Consumer Credit sourcebook (CONC)	Annex C
Investment Funds sourcebook (FUND)	Annex D
Professional Firms sourcebook (PROF)	Annex E
Regulated Covered Bonds(RCB)	Annex F
Recognised Investment Exchanges sourcebook (REC)	Annex G

Notes

- D. In this instrument, notes shown as “**Note:**” are intended for the convenience of the reader but do not form part of the legislative text.

Citation

- E. This instrument may be cited as the Exiting the European Union: Specialist Sourcebooks (Amendments) Instrument 2019.

By order of the Board
28 March 2019

Annex A

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

1 Introduction

1.1 Applications and purpose

Application

- 1.1.1 G (1) This sourcebook, except for *COLL* 9 (Recognised schemes), applies to:
- ...
- (c) *managers and trustees of authorised unit trust schemes (AUTs); and*
- (cA) *authorised fund managers, depositaries and nominated partners of authorised contractual schemes (ACSs); and*
- (d) ~~to the extent indicated, UK UCITS management companies operating EEA UCITS schemes. [deleted]~~
- ...
- (4) ~~This sourcebook also applies to EEA UCITS management companies of UCITS schemes to the extent required by the UCITS Directive. [deleted]~~
- 1.1.1A R ~~This sourcebook does not apply to an incoming ECA provider acting as such. [deleted]~~
- ~~EEA territorial scope: compatibility with European law~~
- 1.1.1B R (1) ~~The territorial scope of this sourcebook is modified to the extent necessary to be compatible with European law.~~
- (2) ~~This rule overrides every other rule in this sourcebook. [deleted]~~
- ~~EEA UCITS management companies of UCITS schemes~~
- 1.1.1C G ~~An EEA UCITS management company that is providing collective portfolio management services for a UCITS scheme from a branch in the United Kingdom, or under the freedom to provide cross border services, is advised that where it operates a UCITS scheme as its designated management company, it meets the Glossary definition of an “ACD” of an ICVC or a “manager” of an AUT or an authorised contractual scheme manager of an ACS, which in either case is a UCITS scheme. Such firms should be aware~~

~~that provisions in this sourcebook that apply to an ACD, a manager or an authorised fund manager of a UCITS scheme accordingly apply to them, unless otherwise indicated: see COLL 12.3 (EEA UCITS management companies) for further details. [deleted]~~

Purpose

1.1.2 G ...

(2) In addition, this sourcebook ~~implements~~ implemented part of the requirements of the *UCITS Directive* ~~to meet EU law obligations relevant to authorised funds and management companies, along with other requirements implemented in other parts of the Handbook.~~

UCITS management company and product passport

1.1.2A G ~~COLL 12 provides for the application of COLL in relation to the management company passport under the UCITS Directive. It explains how the passporting regime applies to both UK UCITS management companies and EEA UCITS management companies when providing collective portfolio management services on a cross border basis. It also explains how the product passport (for UCITS) operates and how UCITS schemes may be marketed in other EEA States. [deleted]~~

...

1.2 Types of authorised fund

...

Types of authorised fund - explanation

1.2.2 G (1) ~~UCITS schemes have to comply with the conditions necessary in order to enjoy the rights available under the UCITS Directive. Such schemes must in particular comply with:~~

...

(2) (a) *Non-UCITS retail schemes* are schemes that do not comply with all the conditions ~~set out in the UCITS Directive~~ necessary to be a UCITS scheme.

...

(c) ~~Under~~ The UK may, under the legislation which implemented article 43 of AIFMD, where an AIF can be marketed to retail clients impose stricter requirements on ~~the an AIFM or the an AIF marketed to retail clients~~ an AIFM or the an AIF marketed to retail clients than the requirements that apply to an AIF marketed only to professional clients.

(d) This sourcebook contains the stricter requirements for an AIF which is a non-UCITS retail scheme.

....

- (f) *Non-UCITS retail schemes could become UCITS schemes, provided they are changed, so as to comply with the necessary conditions set out in the UCITS Directive.*

...

...

(3) ...

- (c) ~~Under article 43 of AIFMD, where an AIF can be marketed to retail clients, Member States may impose stricter requirements on the AIFM or the AIF than the requirements that apply to an AIF marketed only to professional clients.~~
[deleted]

- (d) This sourcebook contains the stricter requirements for an AIF which is a qualified investor scheme.

...

...

...

Pension feeder funds

1.2.5 G ...

- (2) *A pension feeder fund may not invest in units of an EEA UCITS scheme unless that scheme is a recognised scheme ~~under section 264 of the Act~~ (see COLL 5.6.27R and COLL 5.8.2AR).*

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2 Authorised fund applications

2.1 Authorised fund applications

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~~Application by an EEA UCITS management company to manage a UCITS scheme~~

2.1.5 G ~~An EEA UCITS management company that proposes to act as the authorised fund manager of an AUT, ACS or ICVC that is a UCITS scheme, should be aware that it is required under paragraph 15A(1) of Schedule 3 to the Act to apply to the appropriate regulator for approval to do so. The form that the firm must use for this purpose is set out in SUP 13A Annex 3R (EEA UCITS management companies: application for approval to manage a~~

~~UCITS scheme established in the United Kingdom). In addition, those firms are required to provide to the appropriate regulator certain fund documentation, as specified by COLL 12.3.4R (Provision of documentation to the FCA:EEA UCITS management companies). [deleted]~~

~~[Note: article 20(1) of the UCITS Directive]~~

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4 Investor Relations

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4.2 Pre-sale notifications

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Provision and filing of the prospectus

4.2.3 R (1) The *authorised fund manager* of an AUT, ACS or an ICVC must:

...

- (b) file a copy of the *scheme's* original *prospectus*, together with all revisions thereto, with the FCA and, where a *UCITS scheme* is managed by an *EEA UCITS management company*, with that company's *Home State regulator* on request.

...

...

Table: contents of the prospectus

4.2.5 R This table belongs to COLL 4.2.2R (Publishing the prospectus).

Document status		
...		
Authorised fund manager		
6	The following particulars of the <i>authorised fund manager</i> :	
	...	
	(f)	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; [deleted]
	...	

...			
Depository			
8	The following information and particulars concerning the <i>depository</i> :		
	...		
	(e)	if neither its registered office nor its head office is in the <i>United Kingdom</i> , the address of its principal place of business in the <i>United Kingdom</i> ; [deleted]	
	...		
...			
Contracts and other relationships with parties			
11	The following relevant details:		
	...		
	(g)	a list of:	
	(i)	the functions which the <i>authorised fund manager</i> has delegated in accordance with <i>FCA rules</i> or, for an <i>EEA UCITS management company</i> , in accordance with applicable <i>Home State</i> measures implementing article 13 of the <i>UCITS Directive</i> ; and	
	...		
	...		
...			
Marketing in another EEA state			
26	A prospectus of a UCITS scheme which is prepared for the purpose of marketing units in a EEA State other than the United Kingdom, must give details as to:		
	(a)	what special arrangements have been made:	
	(i)	for paying in that EEA State amounts distributable to unitholders resident in that EEA State;	
	(ii)	for redeeming in that EEA State the units of unitholders resident in that EEA State;	
	(iii)	for inspecting and obtaining copies in that EEA State of	

			the <i>instrument constituting the fund</i> and amendments to it, the <i>prospectus</i> and the annual and half-yearly long report; and
		(iv)	for making public the <i>price of units</i> of each <i>class</i> ; and
	(b)		how the <i>ICVC</i> or the <i>authorised fund manager</i> of an <i>AUT</i> or <i>ACS</i> will publish in that <i>EEA State</i> notice:
		(i)	that the annual and half-yearly long report are available for inspection;
		(ii)	that a distribution has been declared;
		(iii)	of the calling of a meeting of <i>unitholders</i> ; and
		(iv)	of the termination of the <i>authorised fund</i> or the revocation of its authorisation. [deleted]

...

Information to be provided on securities financing transactions and total return swaps

...

4.2.5B EU
UK

Transparency of collective investment undertakings in pre-contractual documents	
1.	The UCITS prospectus referred to in Article 69 of Directive 2009/65/EC The prospectus referred to in [COLL 4.2.2R], and the disclosure by AIFMs to investors referred to in Article 23(1) and (3) of Directive 2011/61/EU required by [FUND 3.2.2R] shall specify the SFT and total return swaps which UCITS management companies or UCITS investment companies, and AIFMs respectively, are authorised to use and include a clear statement that those transactions and instruments are used.
2.	The prospectus and the disclosure to investors referred to in paragraph 1 shall include the data provided for in Section B of the Annex.
[Note: article 14(1) and (2) of the <i>Securities Financing Transactions Regulation</i> and article 3 for relevant definitions]	

...

Guidance on contents of the prospectus

4.2.6 G ...

- (6) The *authorised fund manager* of a *UCITS scheme* should consider the appropriateness of including additional matters in its *prospectus* as a result of the *ESMA Guidelines on ETFs and other UCITS issues (ESMA 2012/832)*, which can be found at

https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf

...

4.3 Approvals and notifications

...

Appointment of a new authorised fund manager

4.3.6A R (1) ~~In the case of a *UCITS scheme*, the appointment of a new *ACD* of an *ICVC* under *COLL 6.5.3R* (Appointment of an *ACD*) or the replacement of the *authorised fund manager* of an *AUT* or *ACS* who proposes to retire under *COLL 6.5.8R* (Retirement of an authorised fund manager of an *AUT* or *ACS*) must, if in either case the new *authorised fund manager* is established in a different *EEA State* to the outgoing *authorised fund manager*, be treated as a significant change in accordance with *COLL 4.3.6R*.~~

(2) Paragraph (1) does not apply:

- (a) if the appointment of the new *authorised fund manager* is the subject of an *extraordinary resolution* approved by a meeting of *unitholders*; or
- (b) following the termination of the appointment of the *ACD* of an *ICVC* under *COLL 6.5.4R(2)* or *COLL 6.5.4R(3)* (Termination of appointment of an *ACD*), if the *directors* of the *ICVC* other than the *ACD*, or the *depository* if there are no such *directors*, consider that it would be in the best interests of *unitholders* to appoint a new *ACD* without delay.
[deleted]

Guidance on significant changes

4.3.7 G ...

- (4) The requirement in *COLL 4.3.6AR(1)* applies in all cases where the outgoing *authorised fund manager* (whether established in the *United Kingdom* or in another *EEA State*) is to be replaced by an *authorised fund manager* established in any other *EEA State*

(including the ~~United Kingdom~~). [deleted]

...

Appointment of an AFM without prior written notice to unitholders

4.3.10 R (1) ~~In the case of a UCITS scheme, the appointment of a new authorised fund manager as a result of:~~

(a) ~~in the case of an ICVC, the termination of the appointment of the previous ACD under COLL 6.5.4R(2) or COLL 6.5.4R(3) (Termination of appointment of an ACD); or~~

(b) ~~in the case of an AUT or ACS, the replacement of the authorised fund manager under COLL 6.5.7R(2) (Replacement of an authorised fund manager of an AUT or ACS);~~

~~must, if the new authorised fund manager is established in a different EEA State to the outgoing authorised fund manager, be notified to unitholders. [deleted]~~

...

...

4.5 Reports and accounts

...

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

...

4.5.8AB EU
UK

Transparency of collective investment undertakings in periodical reports	
1.	UCITS management companies, UCITS investment companies, and AIFMs shall inform investors on the use they make of SFTs and total return swaps in the following manner:
(a)	for UCITS management companies or UCITS investment companies in the half-yearly and annual reports referred to in Article 68 of Directive 2009/65/EC <u>[COLL 4.5.3R (Preparation of long reports)]</u> ;

	(b)	for AIFMs in the annual report referred to in Article 22 of Directive 2011/61/EU [<i>FUND 3.3.2R (Provision of annual report).</i>]
2.	...	
[Note: article 13(1) and 13(2) of the <i>Securities Financing Transactions Regulation</i> and article 3 for relevant definitions]		

...

Publication and availability of annual and half-yearly long report

4.5.14 R ...

(2) The reports referred to in (1) must:

...

(c) for a *UCITS scheme*, be available for inspection by the public at a place designated by the *authorised fund manager* in each *EEA State* other than the *United Kingdom* in which *units* in the *authorised fund* ~~are~~ were marketed before exit day, in English and in at least one of that other *EEA State's* official languages; and

(d) be sent to the *FCA* and, ~~if the *UCITS scheme* is managed by an *EEA UCITS management company*, to that company's *Home State regulator* on request.~~

[**Note:** article 74 of the *UCITS Directive*]

...

4.7 Key investor information and marketing communications

...

Key investor information

4.7.2 R ...

(8) ~~*Key investor information* for a *UCITS scheme* must be used without alterations or supplements, except translation, in each *EEA State* where a *UCITS marketing notification* has been made so as to enable the marketing of the *scheme's units* in that State. [deleted]~~

[**Note:** article 78 of the *UCITS Directive*]

Form and content of a key investor information document

- 4.7.3 G The *KII Regulation* sets out the form and content of a *key investor information document*. ~~This Regulation is directly applicable in the United Kingdom and accordingly its articles (but not the preceding recitals) are binding on all firms to which it applies.~~ Under the Regulation an *authorised fund manager* must ensure that each *key investor information document* it produces for a *UCITS scheme* complies with the requirements of the Regulation. For ease of reference the Regulation is reproduced in *COLL Appendix 1EU Appendix 1UK* (The KII Regulation).

...

Synthetic risk and reward indicators and ongoing charges disclosures in the KII

- 4.7.8 G ...
- (3) ~~*Firms* should note that these methodologies may in due course become directly applicable obligations in the light of the European Securities and Markets Authority's powers to develop implementing technical standards in this area. [deleted]~~

...

4.8 Notifications for UCITS master-feeder arrangements

...

Information to be provided to unitholders

- 4.8.3 R ...
- (2) Where a *UCITS marketing notification* ~~has been~~ was made in relation to a *feeder UCITS* before exit day, the *authorised fund manager* of the *feeder UCITS* must ensure that an accurate translation of the information in (1) is provided to *unitholders* in:
- (a) the official language, or one of the official languages, of the ~~*feeder UCITS' Host State*~~ *EEA state* where the *UCITS marketing notification* was made; or
 - (b) a language approved by the ~~*Host State regulator*~~ *overseas regulator* in the *EEA state* where the *UCITS marketing notification* was made.

[**Note:** article 64 first and second paragraphs of the *UCITS Directive*]

...

5 Investment and borrowing powers

...

5.2 General investment powers and limits for UCITS schemes

Application

5.2.1 R ...

- (2) ~~COLL 5.2.23CR (Valuation of OTC derivatives) also applies to a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services. [deleted]~~

...

Eligible markets: requirements

5.2.10 R (1) A market is *eligible* for the purposes of the *rules* in this sourcebook if it is:

...

- (b) a market in the United Kingdom or an *EEA State* which is regulated, operates regularly and is open to the public; or

...

...

...

Issuers and guarantors of money-market instruments

5.2.10B R (1) A *UCITS scheme* may invest in an *approved money-market instrument* if it is:

- (a) issued or guaranteed by any one of the following:

(i) a central authority of the United Kingdom or an *EEA State* or, if the *EEA State* is a federal state, one of the members making up the federation;

(ii) a regional or local authority of the United Kingdom or an *EEA State*;

(iii) the Bank of England, the European Central Bank or a central bank of an *EEA State*;

...

(vi) a public international body to which the United Kingdom or one or more *EEA States* belong; or

...

- (c) issued or guaranteed by an establishment which is:
- (i) subject to prudential supervision in accordance with criteria defined by UK or EU law; or
 - (ii) subject to and complies with prudential rules considered by the *FCA* to be at least as stringent as those laid down by UK or EU law.

- (2) An establishment shall be considered to satisfy the requirement in (1)(c)(ii) if it is subject to and complies with prudential rules, and fulfils one or more of the following criteria:

...

- (d) on the basis of an in-depth analysis of the issuer, it can be demonstrated that the prudential rules applicable to that issuer are at least as stringent as those laid down by UK or EU law.

[**Note:** article 6 of the *UCITS eligible assets Directive*]

...

Other money-market instruments with a regulated issuer

- 5.2.10E G (1) In addition to instruments admitted to or *dealt* in on an *eligible* market, a *UCITS scheme* may also with the express consent of the *FCA* (which takes the form of a *waiver* under sections 138A and 138B of the *Act* as applied by section 250 of the *Act* or regulation 7 of the *OEIC Regulations*) invest in an *approved money-market instrument* provided:

...

- (c) the issuer is a company whose capital and reserves amount to at least EUR 10 million and which presents and publishes its annual accounts in accordance with the requirements of the Companies Act 2006 applicable to public companies limited by shares or by guarantee, or private companies limited by shares or by guarantee, or, for companies incorporated in the EEA, Directive 78/660/EEC 2013/34/EU, is an entity which, within a group of companies which includes one or several listed companies, is dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.

...

- (3) A banking liquidity line is a banking facility secured by a financial institution which is an establishment subject to prudential supervision in accordance with criteria defined by UK or EU law or an establishment which is subject to and complies with prudential rules considered by the *FCA* (in accordance with *COLL* 5.2.10BR(2)) to be at least as stringent as those laid down by UK or EU law.

[**Note:** article 50(1)(h)(iv) of the *UCITS Directive* and article 7 of the *UCITS eligible assets Directive*]

Spread: general

5.2.11 R ...

- (2) For the purposes of this *rule* companies included in the same group for the purposes of consolidated accounts as defined in accordance with ~~the Seventh Council~~ section 399 of Companies Act 2006, Directive 83/349/EEC of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts 2013/34/EU or, in the same group in accordance with international accounting standards, are regarded as a single body.

...

...

Spread: government and public securities

5.2.12 R (1) This *rule* applies in respect of a *transferable security* or an *approved money-market instrument* (“such securities”) that is issued by:

- (a) the United Kingdom or an EEA State;
- (b) a local authority of the United Kingdom or an EEA State;

...

- (d) a public international body to which the UK or one or more *EEA States* belong.

...

Investment in collective investment schemes

5.2.13 R A *UCITS scheme* must not invest in *units* in a *collective investment scheme* (“second *scheme*”) unless the second *scheme* satisfies all of the following conditions, and provided that no more than 30% of the value of the *UCITS scheme* is invested in second *schemes* within (1)(b) to (e):

- (1) the second *scheme* must:

- (a) be a UCITS scheme or satisfy the conditions necessary for it to enjoy the rights conferred by the *UCITS Directive* as implemented in the EEA; or
- (b) ~~be a recognised scheme under the provisions of section 272 of the Act (Individually recognised overseas schemes)~~ that is authorised by the *supervisory authorities* of Guernsey, Jersey or the Isle of Man (provided the requirements of ~~article 50(1)(e) of the UCITS Directive~~ COLL 5.2.13AR are met); or
- (c) be authorised as a *non-UCITS retail scheme* (provided the requirements of ~~article 50(1)(e) of the UCITS Directive~~ COLL 5.2.13AR(1), (3) and (4) are met); or
- (d) be authorised in ~~another~~ an EEA State (provided the requirements of ~~article 50(1)(e) of the UCITS Directive~~ COLL 5.2.13AR are met); or
- (e) be authorised by the competent authority of an *OECD* member country (other than ~~another~~ an EEA State) which has:
 - (i) signed the IOSCO Multilateral Memorandum of Understanding; and
 - (ii) approved the *scheme's* management company, rules and *depository/custody* arrangements;
 (provided the requirements of ~~article 50(1)(e) of the UCITS Directive~~ COLL 5.2.13AR are met);

...

5.2.13A R The requirements referred to in COLL 5.2.13R(1) are that:

- (1) the second scheme is an undertaking:
 - (a) with the sole object of collective investment in transferable securities or in other liquid financial assets, as referred to in this chapter, of capital raised from the public and which operate on the principle of risk-spreading; and
 - (b) with units which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of those undertakings' assets (action taken by a scheme to ensure that the price of its units on an investment exchange does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption);
- (2) the second scheme is authorised under laws which provide that they are subject to supervision considered by the FCA to be equivalent to

that laid down in the law of the *United Kingdom*, and that cooperation between the *FCA* and the *supervisory authorities* of the second *scheme* is sufficiently ensured;

- (3) the level of protection for *unitholders* in the second *scheme* is equivalent to that provided for *unitholders* in a *UCITS scheme*, and in particular that the rules on asset segregation, borrowing, lending, and uncovered sales of *transferable securities* and *approved money market instruments* are equivalent to the requirements of this chapter; and
- (4) the business of the second *scheme* is reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period.

Qualifying non-UCITS collective investment schemes

5.2.14 G ...

- (2) ~~Article 50 of the *UCITS Directive* sets out the general investment limits. So, a *A scheme* which has the power to invest in gold or immovables would not meet the criteria set out in *COLL 5.2.13R(1)*.~~
- (3) In determining whether a *scheme* (other than a *UCITS*) meets the requirements of ~~article 50(1)(e) of the *UCITS Directive*~~ *COLL 5.2.13AR* for the purposes of *COLL 5.2.13R(1)*, the *authorised fund manager* should consider the following factors before deciding that the *scheme* provides a level of protection for *unitholders* which is equivalent to that provided to *unitholders* in a *UCITS scheme*:

...

...

- (4) The requirement for supervisory equivalence, as described in ~~article 50(1)(e) (first indent) of the *UCITS Directive*~~ *COLL 5.2.13AR(2)*, also applies to *schemes* (that are not *EEA UCITS schemes*) established in ~~other~~ *EEA States*. In considering whether the second *scheme* satisfies this requirement, the *authorised fund manager* should have regard to the first section of article 26 of *CESR's UCITS eligible assets guidelines*.

...

Valuation of OTC derivatives

5.2.23C R (1) For the purposes of *COLL 5.2.23R(2)*, an *authorised fund manager* of a *UCITS scheme* ~~or a *UK UCITS management company* of an *EEA UCITS scheme*~~ must:

- (a) establish, implement and maintain arrangements and procedures which ensure appropriate, transparent and fair

valuation of the exposures of a *UCITS scheme* ~~or an EEA UCITS scheme~~ to *OTC derivatives*; and

...

- (2) Where the arrangements and procedures referred to in (1) involve the performance of certain activities by third parties, the *authorised fund manager* ~~or UK UCITS management company~~ must comply with the requirements in *SYSC 8.1.13R* (Additional requirements for a management company) and *COLL 6.6A.4R(5)* and (6) (Due diligence requirements of AFMs of UCITS schemes), ~~and EEA UCITS schemes~~ or, where appropriate, the equivalent requirements of the *UCITS Home State regulator* implementing article 5(2) and article 23(4), second subparagraph, of the *UCITS implementing Directive*.

...

...

Disclosure requirements in relation to UCITS schemes ~~or EEA UCITS schemes~~ that employ particular investment strategies

- 5.2.34 G (1) *Authorised fund managers* of *UCITS schemes* ~~or EEA UCITS schemes~~ should bear in mind that where a *UCITS scheme*, ~~or an EEA UCITS scheme that is a recognised scheme under section 264 of the Act,~~ employs particular investment strategies such as those in (2), *COBS 4.13.2R* (Marketing communications relating to UCITS schemes ~~or EEA UCITS schemes~~) and *COBS 4.13.3R* (Marketing communications relating to a feeder UCITS) contain additional disclosure requirements in relation to marketing communications that concern those investment strategies.

...

Guidance on syndicated loans

- 5.2.35 R ...
- (2) To determine whether an interest in a syndicated loan would be an eligible investment for a *UCITS scheme* in accordance with *COLL 5.2*, an *authorised fund manager* should first consider whether it constitutes a *transferable security* within the meaning of *COLL 5.2.7R* (Transferable securities) and ~~then consider~~ *COLL 5.2.7AR* (which implemented the additional eligibility criteria arising out of the *UCITS eligible assets Directive* that relate to liquidity, valuations and negotiability (see ~~*COLL 5.2.7AR*~~ (Investment in transferable securities)).

...

...

5.6 Investment powers and borrowing limits for non-UCITS retail schemes

...

Explanation of COLL 5.6

5.6.2 G (1) This section contains *rules* on the types of permitted investments and any relevant limits with which *non-UCITS retail schemes* must comply. These *rules* allow for the relaxation of certain investment and borrowing powers from the requirements of the *UCITS Directive* applicable to *UCITS schemes*. ~~Consequently, a scheme authorised as a non-UCITS retail scheme will not qualify for the cross border passporting rights conferred by the UCITS Directive on a UCITS scheme.~~

(2) Some examples of the different investment and borrowing powers under the *rules* in this section for *non-UCITS retail schemes* are the power to:

...

(c) invest in a wider range of *schemes* ~~which do not comply with the requirements of the UCITS Directive~~ *alternative investment funds*;

...

...

Spread: government and public securities

5.6.8 R (1) This *rule* applies in respect of a *transferable security* or an *approved money-market instrument* (“such *securities*”) that is issued or guaranteed by:

(a) the UK or an *EEA State*; or

(b) a local authority of the UK or an *EEA State*; or

...

(d) a public international body to which the UK or one or more *EEA States* belong.

...

...

Investment in collective investment schemes

5.6.10 R A *non-UCITS retail scheme*, except for a *feeder NURS* (which must instead comply with *COLL 5.6.26R*), must not invest in *units* in a *collective investment scheme* (second *scheme*) unless the second *scheme* meets each of the requirements at (1) to (5):

(1) the second *scheme*:

(a) is a *UCITS scheme* or satisfies the conditions necessary for it to enjoy the rights conferred by the *UCITS Directive* as implemented in the *EEA*; or

...

...

...

Qualifying collective investment schemes for feeder NURS

5.6.26 R The *authorised fund manager* of a *feeder NURS* must ensure that the *feeder NURS* does not invest in the *qualifying master scheme*, unless the *qualifying master scheme* meets the requirements in (1) to (3):

(1) the *qualifying master scheme*:

(a) is a *UCITS scheme* or satisfies the conditions necessary for it to enjoy the rights conferred by the *UCITS Directive* as implemented in the *EEA*; or

...

...

(3) the *qualifying master scheme*:

(a) is not:

(i) a *feeder UCITS* or an *EEA UCITS scheme* or a *sub-fund* of an *EEA UCITS scheme* which has been approved by the *overseas regulator* of the *UCITS Home State* to invest at least 85% of its assets in the *units* of a single *EEA master UCITS*; or

...

(b) does not hold units in:

(i) a *feeder UCITS* or an *EEA UCITS scheme* or a *sub-fund* of an *EEA UCITS scheme* which has been approved by the *overseas regulator* of the *UCITS Home State* to invest at least 85% of its assets in the

units of a single EEA master UCITS; or

...

- 5.6.27 R An *EEA UCITS scheme* that is not a *recognised scheme* ~~under section 264 of the Act~~ is not a *qualifying master scheme* for COLL 5.6.26R(3) for a *pension feeder fund* that is a *feeder NURS*.

...

5.8 Investment powers and borrowing limits for feeder UCITS

...

Permitted types of scheme property

...

- 5.8.2A R The *authorised fund manager* of a *pension feeder fund* that is a *feeder UCITS* must ensure that the single *master UCITS* is:

- (1) a *UCITS scheme*; or
- (2) an *EEA UCITS scheme* that is a *recognised scheme* ~~under section 264 of the Act~~.

...

6 Operating duties and responsibilities

...

6.3 Valuation and pricing

Application

- 6.3.1 R ...
- (2) ~~COLL 6.3.3AR to COLL 6.3.3DR~~ (Accounting procedures):
 - (a) apply to:
 - (i) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services; and~~
 - (ii) ~~an EEA UCITS management company providing collective portfolio management services for a UCITS scheme from a branch in the United Kingdom; in addition to applying in accordance with (1); but~~

- (b) ~~do not apply to an EEA UCITS management company providing collective portfolio management services for a UCITS scheme under the freedom to provide cross border services. [deleted]~~

...

Accounting procedures

- 6.3.3A R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must ensure the employment of the accounting policies and procedures referred to in SYSC 4.1.9R (Accounting policies), so as to ensure the protection of unitholders.

...

- 6.3.3B R ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must have accounting policies and procedures established, implemented and maintained, in accordance with the accounting rules of the *UCITS Home State United Kingdom*, so as to ensure that the calculation of the net asset value of each *scheme* it manages is accurately effected, on the basis of the accounting, and that subscription and *redemption* orders can be properly executed at that net asset value.

[Note: article 8(2) of the *UCITS implementing Directive*]

...

- 6.3.3D R ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must establish appropriate procedures to ensure the proper and accurate valuation of the assets and liabilities of each *scheme* it manages.

[Note: article 8(3) of the *UCITS implementing Directive*]

...

6.6 Powers and duties of the scheme, the authorised fund manager, and the depositary

...

Maintenance of records

...

- 6.6.6A R ...
- (2) ~~COLL 6.6A.6R ((Strategies for the exercise of voting rights) also applies to a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a~~

~~branch in another EEA State, as well as applying in accordance with (1). [deleted]~~

...

...

Committees and delegation

...

- 6.6.15A R (1) This rule applies to:
- (a) an authorised fund manager ~~(other than an EEA UCITS management company)~~ of an AUT, ACS or an ICVC where such AUT, ACS or ICVC is a UCITS scheme; and
 - (aa) a small authorised UK AIFM that is the authorised fund manager of an AUT, ACS or an ICVC that is a non-UCITS retail scheme; ~~and~~
 - (b) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services. [deleted]~~
- (2) The authorised fund manager has the power to retain the services of any person to assist it in the performance of its functions, provided that:
- (a) a mandate in relation to *managing investments* of the scheme is not given to:
 - ...
 - (iv) any other person operating from an establishment in a country other than the *United Kingdom* unless such person:
 - ...
 - (B) is subject to prudential supervision in such country;

and in addition if that person is not an ~~EEA~~ UK firm, co-operation is ensured between the FCA and the overseas regulator of that person;

...

...

Delegation: guidance

6.6.16 G ...

- (3) For the purpose of *COLL* 6.6.15AR (2)(a)(iv), adequate co-operation will be ensured where the *FCA* has entered into a co-operation agreement of the kind referred to in article 102(3) of the *UCITS Directive* providing for the exchange of information with the relevant *overseas regulator* which is subject to guarantees of professional secrecy that prevent recipients of any confidential information divulging it to any person whatsoever, save in summary or aggregate form such that *UCITS* schemes, management companies and depositaries cannot be individually identified, without prejudice to cases covered by criminal law.

...

...

6.6A Duties of AFMs in relation to UCITS schemes and ~~EEA UCITS schemes~~

Application

6.6A.1 R (1) This section applies to:

- (a) an *authorised fund manager* of a *UCITS* scheme, a *depository*, an *ICVC* and any other *director* of an *ICVC* which is a *UCITS* scheme; ~~and~~
- (b) ~~subject to (2), a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme under the freedom to provide cross border services.~~ [deleted]
- (2) ~~*COLL* 6.6A.6R (Strategies for the exercise of voting rights) also applies to a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State, as well as applying in accordance with (1).~~ [deleted]
- (3) ~~This section does not apply to an EEA UCITS management company providing collective portfolio management services for a UCITS scheme under the freedom to provide cross border services.~~ [deleted]

Duties of AFMs of UCITS schemes and ~~EEA UCITS schemes~~ to act in the best interests of the scheme and its unitholder

6.6A.2 R An *authorised fund manager* of a *UCITS* scheme ~~or a UK UCITS management company of an EEA UCITS scheme~~ must:

...

...

Due diligence requirements of AFMs of UCITS schemes ~~and EEA UCITS schemes~~

- 6.6A.4 R ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must:

...

- (3) establish written policies and procedures on due diligence and implement effective arrangements for ensuring that investment decisions on behalf of any *UCITS scheme* ~~or EEA UCITS scheme~~ it manages are carried out in compliance with the objectives and the investment strategy and *risk limit system* of the *scheme*;

...

Compliance with the regulatory requirements applicable to the conduct of business activities of a UCITS management company

- 6.6A.5 R The ~~authorised fund manager of a UCITS scheme or the UK UCITS management company of an EEA UCITS scheme~~ must comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of its investors and the integrity of the market.

[Note: article 14(1)(e) of the *UCITS Directive*]

Strategies for the exercise of voting rights

- 6.6A.6 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must develop adequate and effective strategies for determining when and how voting rights attached to ownership of *scheme property*, ~~or the instruments held by an EEA UCITS scheme~~, are to be exercised, to the exclusive benefit of the *scheme* concerned.

...

- (3) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must make available to *unitholders*:

...

...

Appointment of a single depositary

- 6.6A.7 R ~~An authorised fund manager of a UCITS scheme, or a UK UCITS management company of an EEA UCITS scheme,~~ must (for each *scheme* it

manages) ensure that:

...

- (2) the assets of the *UCITS UCITS scheme* are entrusted to the *depository* for safekeeping in accordance with: COLL 6.6B.18R and COLL 6.6B.19R.
- (a) ~~for a UCITS scheme, COLL 6.6B.18R and COLL 6.6B.19R; and~~
- (b) ~~for an EEA UCITS scheme, the national laws and regulations in the Home State of the EEA UCITS scheme that implement article 22(5) of the UCITS Directive.~~

[**Note:** article 22(1) and (5) of the *UCITS Directive*]

Eligible depositories for UCITS schemes

...

- 6.6A.9 G For a *depository* to be established in the *United Kingdom*, it must have its registered office ~~or branch~~ in the *United Kingdom*.

Eligible depositories for EEA UCITS schemes

- 6.6A.10 R ~~A UK UCITS management company must ensure the depository it appoints for each EEA UCITS scheme it manages is established in the Home State of the EEA UCITS scheme and is eligible to be a depository in that Home State. [deleted]~~

~~[Note: article 23(2) of the UCITS Directive]~~

Written contract

- 6.6A.11 R (1) ~~An authorised fund manager of a UCITS scheme, or a UK UCITS management company of an EEA UCITS scheme,~~ must ensure that the appointment of the *depository* is evidenced by a written contract.

...

...

- 6.6A.13 G Article 2 of the *UCITS level 2 regulation* sets out the minimum information that must be included in the written contract between:
- (1) (a) the *authorised fund manager* of a *UCITS scheme*; ~~or and~~
- (b) ~~a UK UCITS management company of an EEA UCITS scheme; and [deleted]~~
- (2) the *depository*.

6.6B UCITS depositaries

...

Eligible depositaries for UCITS schemes

...

- 6.6B.6 G For a *depository* to be *established* in the *United Kingdom*, it must have its registered office ~~or branch~~ in the *United Kingdom*.

Depositaries appointed under COLL 6.6A.8R(3) (non-bank depositaries): Capital requirements

- 6.6B.7 G A *depository* appointed in accordance with *COLL* 6.6A.8R(3) needs to satisfy the capital requirements in either:

- (1) IPRU(INV) 5; or
- (2) IFPRU and the ~~EU-CRR~~ UK CRR.

...

- 6.6B.9 G (1) If the *depository* is a *full-scope IFPRU investment firm*, it is subject to the capital requirements of *IFPRU* and the ~~EU-CRR~~ UK CRR.
- (2) However, these requirements are not in addition to *COLL* 6.6B.8R and therefore that *firm* may use the *own funds* required under *IFPRU* and the ~~EU-CRR~~ UK CRR to meet the £4 million requirement.

- 6.6B.10 G ~~If the *depository* appointed in accordance with *COLL* 6.6A.8R(3) is an *incoming EEA firm* that has a *top-up permission* for acting as trustee or *depository of a UCITS*, it must comply with the applicable capital requirements set out in IPRU(INV) 5. [deleted]~~

...

Depository functions: cash monitoring

- 6.6B.17 R The *depository* must ensure that the cash flows of each *UCITS scheme* are properly monitored and that:

...

- (2) all cash of the *scheme* has been booked in cash accounts which are:

...

- (b) at:

...

(iii) a bank authorised in a ~~third country~~ country other than an EEA State; and

(c) maintained in accordance with the principles in article 2 (safeguarding of client financial instruments and funds) of the *MiFID Delegated Directive*; and

...

...

Limitation on delegation

...

6.6B.23 G The use of services provided by securities settlement systems, as specified in the ~~Settlement Finality Directive~~ Financial Markets and Insolvency (Settlement Finality) Regulations 1999, or similar services provided by ~~third country~~ securities settlement systems in other countries, does not constitute a delegation by the *depository* of its functions for the purposes of *COLL 6.6B.22R*.

[**Note:** article 22a(4) of the *UCITS Directive*]

6.6B.24 G (1) (a) If a *depository* performs part of its functions through a *branch* in ~~another~~ an EEA State, this is not a delegation by the *depository* of its functions to a third party

...

(2) ~~Paragraph (1) also applies where the *depository* is the *UK branch* of an *EEA firm* and it performs part of its functions:~~

~~(a) through a *branch* in another *EEA State*; or~~

~~(b) from the *EEA State* where it has its registered office.~~
[deleted]

(3) (a) A *depository* that performs part of its functions through a *branch* ~~or registered office~~ in ~~another~~ an EEA State should ensure that those arrangements do not impede the *depository's* ability to meet the *threshold conditions*.

...

Delegation: safekeeping

6.6B.25 R A *depository* may delegate the functions in *COLL 6.6B.18R* and *COLL 6.6B.19R* to one or more third parties if:

- (1) the tasks are not delegated with the intention of avoiding the requirements of the *UCITS Directive*, as implemented in this chapter;

...

Delegation: third countries

6.6B.26 R A *depository* may delegate custody tasks in relation to *UCITS custodial assets* to an entity in a ~~third~~ another country even though that entity does not satisfy the conditions in *COLL 6.6B.25R(4)(b)(i)* if:

- (1) the law of that ~~third~~ country requires those *UCITS custodial assets* to be held in custody by a local entity;

...

- (3) the *depository* delegates its functions to such a local entity only:

- (a) to the extent required by the law of that ~~third~~ country; and

...

- (4) the investors of the relevant *UCITS scheme* are informed before their investment:

- (a) that such delegation is required due to legal constraints in the ~~third~~ other country;

...

...

...

Reporting of breaches

6.6B.30 R A *depository* must have appropriate procedures for its employees to report internally, through a specific, independent and autonomous channel, potential or actual breaches of those national provisions transposing which implemented the *UCITS Directive* internally through a specific, independent and autonomous channel before *exit day*.

[**Note:** article 99d(5) of the *UCITS Directive*]

...

6.9 Independence, names and UCITS business restrictions

...

Undesirable or misleading names

- 6.9.6 G ...
- (3) The *FCA* is unlikely to approve a name of an *authorised fund* that includes the word “guaranteed” unless:
- (a) the guarantee is given by:
- (i) an *authorised person*;
- (ii) a *person authorised by a Home State regulator which is established in an EEA State and equivalent to an authorised person*; or
- (iii) a *person* subject to prudential supervision in accordance with criteria defined by *EU UK* law or prudential rules at least as stringent as those laid down by *EU UK* law;

other than the *authorised fund manager* or the *depository*.

...

...

...

Use of the term ‘UCITS ETF’

- 6.9.8B G ...
- (2) A ‘UCITS ETF’ should use the identifier ‘UCITS ETF’ which identifies it as an exchange traded fund. This identifier should be used in its name, fund rules, *instrument of incorporation, prospectus, key investor information document* or marketing communications. ~~The identifier ‘UCITS ETF’ should be used in all EU languages.~~

...

...

Connected activities: guidance

- 6.9.10 G ...
- (2) ~~The restrictions of business imposed by COLL 6.9.9R reflect the position under Article 6 of the UCITS Directive. In accordance with recital (12) of the Directive the activities referred to at COLL 6.9.9R(3)(a) to COLL 6.9.9R(3)(c) may be performed on behalf of EEA UCITS management companies.~~

...

6.10 Senior personnel responsibilities

Application

- 6.10.1 R (1) This section applies to an authorised fund manager of a UCITS scheme.²
- (a) ~~an authorised fund manager of a UCITS scheme; and~~
- (b) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services.~~
- (2) This section does not apply to ~~an EEA UCITS management company providing collective portfolio management services for a UCITS scheme under the freedom to provide cross border services.~~ [deleted]

Senior personnel responsibilities

- 6.10.2 R In complying with SYSC 4.3.1R (Responsibility of senior personnel), an *authorised fund manager of a UCITS scheme* ~~or a UK UCITS management company of an EEA UCITS scheme~~ must ensure that its *senior personnel*:
- ...
- (3) are responsible for ensuring that the *authorised fund manager* ~~or UK UCITS management company~~ has a permanent and effective compliance function as referred to in SYSC 6.1 (Compliance), even if this function is performed by a third party;
- ...
- 6.10.3 R An *authorised fund manager of a UCITS scheme* ~~or a UK UCITS management company of an EEA UCITS scheme~~ must ensure that its *senior personnel* receive, on a regular basis, reports on the implementation of investment strategies and of the internal procedures for taking the investment decisions referred to in COLL 6.10.2R(2) to COLL 6.10.2R(5).
- [Note: article 9(5) of the *UCITS implementing Directive*]

6.11 Risk control and internal reporting

Application

- 6.11.1 R (1) This section applies to an authorised fund manager of a UCITS scheme.²
- (a) ~~an authorised fund manager of a UCITS scheme; and~~

(b) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services.~~

(2) ~~This section does not apply to an EEA UCITS management company providing collective portfolio management services for a UCITS scheme under the freedom to provide cross border services. [deleted]~~

Permanent risk management function

- 6.11.2 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must establish and maintain a permanent risk management function.
- (2) The function referred to in (1) must be hierarchically and functionally independent from operating units, except where such independence would not be appropriate and proportionate in view of the nature, scale and complexity of the *authorised fund manager's or UK UCITS management company's* business and of each *scheme* it manages.
- (3) The *authorised fund manager or UK UCITS management company* must be able to demonstrate that:
- ...
- (b) its risk management process satisfies the requirements of COLL 6.12.3R (Risk management process) ~~or, where appropriate, the relevant UCITS Home State measures implementing article 51 of the UCITS Directive.~~

[Note: articles 12(1) and 12(2) of the *UCITS implementing Directive*]

- 6.11.3 G Where the risk management function required under COLL 6.11.2R(1) is not hierarchically and functionally independent, the *authorised fund manager or UK UCITS management company* should nevertheless be able to demonstrate that its risk management process satisfies the requirements of COLL 6.12.3R (Risk management process) and that, in particular, the appropriate safeguards have been adopted.

[Note: article 12(2) third paragraph and recital (12) of the *UCITS implementing Directive*]

Duties of the permanent risk management function

- 6.11.4 R (1) The permanent risk management function must:
- ...
- (b) ensure compliance with the *risk limit system*, including

statutory limits concerning global exposure and counterparty risk, as required by *COLL 5.2* (General investment powers and limits for UCITS schemes) and *COLL 5.3* (Derivative exposure) ~~or, where appropriate, the relevant *UCITS Home State* measures implementing articles 41, 42 and 43 of the *UCITS implementing Directive*;~~

...

- (f) review and support, where appropriate, the arrangements for the valuation of *OTC derivatives*, as referred to in *COLL 5.2.23R* (OTC transactions in derivatives), *COLL 5.2.23CR* (Valuation of OTC derivatives) and in this *rule* ~~or, where appropriate, the relevant *UCITS Home State* measures implementing article 44 of the *UCITS implementing Directive*.~~

...

6.12 Risk management policy and risk measurement

Application

- 6.12.1 R This section applies to an authorised fund manager and a depositary of a UCITS scheme.²
- (1) ~~an authorised fund manager and a depositary of a UCITS scheme; and~~
- (2) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme from a branch in another EEA State or under the freedom to provide cross border services.~~
- 6.12.2 G ~~In the FCA's view the requirements relating to risk management policy and risk measurement set out in this section are the regulatory responsibility of the management company's Home State regulator but to the extent that they constitute fund application rules, are also the responsibility of the UCITS' Home State regulator. As such, these responsibilities may overlap between the competent authorities of the Home and Host States. EEA UCITS management companies providing collective portfolio management services for a UCITS scheme, whether from a branch in the United Kingdom or under the freedom to provide cross border services, are therefore advised that they will be expected to comply with the requirements of this section, except for COLL 6.12.3R(2) which, as a notification requirement, is a matter reserved for the rules of the management company's Home State. [deleted]~~

Risk management process

- 6.12.3 R (1) (a) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme must use a risk management process enabling it to monitor and~~

measure at any time the risk of the *scheme's* positions and their contribution to the overall risk profile of the *scheme*.

- (b) In particular, an *authorised fund manager* of a *UCITS scheme* ~~or a *UK UCITS management company* of an *EEA UCITS scheme*~~ must not solely or mechanically rely on credit ratings issued by credit rating agencies, as defined in article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, or credit rating agencies as defined in the *CRA Regulation*, for assessing the creditworthiness of the *scheme's* assets.

- (2) An *authorised fund manager* ~~(excluding the *EEA UCITS management company* of a *UCITS scheme*) or a *UK UCITS management company* of an *EEA UCITS scheme*~~ must regularly notify the following information to the *FCA* and at least on an annual basis:

...

- 6.12.3A R An *authorised fund manager* ~~or a *UK UCITS management company* of an *EEA UCITS scheme*~~ subject to *COLL* 6.12.3R(2) must notify the *FCA* of the information specified in points (a) and (b) of that *rule*:

- (1) annually, within 30 *business days* of 31 October, with information that is accurate as of 31 October of that year;

...

- 6.12.3B G (1) In addition, an *authorised fund manager* ~~or a *UK UCITS management company* of an *EEA UCITS scheme*~~ subject to *COLL* 6.12.3R(2) should submit a notification to the *FCA* if there has been a significant change to the *fund's* risk profile since its last report, by sending the form in *COLL* 6 Annex 2R, completed as applicable, to fundsupervision@fca.org.uk.

...

- 6.12.4 G ...

- (3) An *authorised fund manager* ~~or a *UK UCITS management company*~~ is expected to demonstrate more sophistication in its risk management process for a *scheme* with a complex risk profile than for one with a simple risk profile. In particular, the risk management process should take account of any characteristic of non-linear dependence in the value of a position to its underlying.

- (4) An *authorised fund manager* ~~or a *UK UCITS management company*~~ should take reasonable care to establish and maintain such systems and controls as are appropriate to its business as required by *SYSC*

4.1 (General requirements).

...

- (6) An *authorised fund manager* ~~or a UK UCITS management company of an EEA UCITS scheme~~ should undertake the risk assessment required by COLL 5.2.20R (7)(d) (Permitted transactions (derivatives and forwards)) with the highest care when the counterparty to the *derivative* transaction is an *associate* of the *authorised fund manager*, ~~the UK UCITS management company~~ or the credit issuer.

[**Note:** CESR's UCITS eligible assets guidelines with respect to article 8(2)(d) of the UCITS eligible assets Directive]

Risk management policy

- 6.12.5 R (1) An *authorised fund manager* of a UCITS scheme ~~or a UK UCITS management company of an EEA UCITS scheme~~ must establish, implement and maintain an adequate and documented risk management policy for identifying the risks to which that *scheme* is or might be exposed.
- (2) The risk management policy must comprise such procedures as are necessary to enable the *authorised fund manager* ~~or UK UCITS management company~~ to assess the exposure of each UCITS it manages to *market risk*, *liquidity risk* and *counterparty risk*, and to all other risks, including *operational risk*, that might be material for that scheme.
- (3) The risk management policy must address at least the following elements:
- (a) the techniques, tools and arrangements that enable the *authorised fund manager* ~~or UK UCITS management company~~ to comply with the obligations set out in this section and COLL 5.3 (Derivative exposure);
- (b) the allocation of responsibilities within the *authorised fund manager* ~~or UK UCITS management company~~ pertaining to risk management; and
- ...
- (4) To meet its obligations in (1), (2) and (3) an *authorised fund manager* ~~or a UK UCITS management company~~ must take into account the nature, scale and complexity of its business and of the UCITS it manages.

[**Note:** article 38 of the UCITS implementing Directive]

- 6.12.6 G ~~UK UCITS management companies operating EEA UCITS schemes are advised that to the extent that the matters referred to in COLL 6.12.5R(3)(a) are viewed by the UCITS Home State regulator as falling under its responsibility, they will be expected to comply with the UCITS Home State measures implementing articles 40 and 41 of the UCITS implementing Directive. [deleted]~~

Monitoring of risk management policy

- 6.12.7 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must assess, monitor and periodically review:
- ...
- (b) the level of compliance by the ~~authorised fund manager or the UK UCITS management company~~ with the risk management policy and with those arrangements, processes and techniques referred to in COLL 6.12.5R; and
- ...
- (2) ~~The authorised fund manager (excluding an EEA UCITS management company of a UCITS scheme) or a UK UCITS management company of an EEA UCITS scheme~~ must notify the FCA of any material changes to the risk management process.

[Note: article 39(1) and 39(2) of the UCITS implementing Directive]

- 6.12.8 G ~~UK UCITS management companies~~ Authorised fund managers are advised that when they applied for *authorisation* from the FCA under the Act, their ability to comply with the requirements in COLL 6.12.7R would have been assessed by the FCA as an aspect of their fitness and properness in determining whether the *threshold conditions* set out in Schedule 6 (Threshold conditions) of the Act were met. *Firms* are further advised that their compliance with these requirements is subject to review by the FCA on an ongoing basis in determining whether they continue to meet the *threshold conditions*.

[Note: article 39(3) of the UCITS implementing Directive]

Measurement and management of risk

- 6.12.9 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must adopt adequate and effective arrangements, processes and techniques in order to:
- ...
- (2) For the purposes of (1), the ~~authorised fund manager or a UK UCITS management company~~ must take the following actions for each UCITS it

manages:

...

- (3) The arrangements, processes and techniques referred to in (1) should be proportionate in view of the nature, scale and complexity of the business of the *authorised fund manager* ~~or the UK UCITS management company~~ and the *UCITS* it manages and be consistent with the *UCITS*' risk profile.

[**Note:** articles 40(1) and 40(2) of the *UCITS implementing Directive*]

- 6.12.10 G ~~UK UCITS management companies operating EEA UCITS schemes are advised that to the extent that the matters referred to in COLL 6.12.9R(1)(b) are viewed by the UCITS Home State regulator as falling under its responsibility, they will be expected to comply with the UCITS Home State measures implementing articles 41 and 43 of the UCITS implementing Directive. [deleted]~~

- 6.12.11 R (1) ~~An authorised fund manager or a UK UCITS management company of an EEA UCITS scheme~~ must employ an appropriate *liquidity risk* management process in order to ensure that each *UCITS* it manages is able to comply at any time with COLL 6.2.16R (Sale and redemption) ~~or the equivalent UCITS Home State measures implementing article 84(1) of the UCITS Directive.~~
- (2) Where appropriate, the *authorised fund manager* ~~or UK UCITS management company~~ must conduct stress tests to enable it to assess the *liquidity risk* of the *UCITS* under exceptional circumstances.

[**Note:** article 40(3) of the *UCITS implementing Directive*]

- 6.12.12 R ~~An authorised fund manager or a UK UCITS management company of an EEA UCITS scheme~~ must ensure that, for each *UCITS* it manages, the *liquidity profile* of the investments of the *scheme* is appropriate to the *redemption policy* laid down in the *instrument constituting the fund* or the *prospectus*.

[**Note:** article 40(4) of the *UCITS implementing Directive*]

...

6.13 Record keeping

Application

- 6.13.1 R (1) This section applies to an authorised fund manager of a UCITS scheme:
- (a) ~~an authorised fund manager of a UCITS scheme; and~~
- (b) ~~a UK UCITS management company providing collective portfolio management services for an EEA UCITS scheme~~

~~from a branch in another EEA State or under the freedom to provide cross border services.~~

- (2) ~~This section does not apply to an EEA UCITS management company providing collective portfolio management services for a UCITS scheme under the freedom to provide cross border services. [deleted]~~

Recording of portfolio transactions

- 6.13.2 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must ensure, for each portfolio transaction relating to a *scheme* it manages, that a record of information which is sufficient to reconstruct the details of the order and the executed transaction is produced without delay.

...

Recording of subscription and redemption orders

- 6.13.3 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must take all reasonable steps to ensure that every subscription and *redemption* order it receives relating to *units* in any such *scheme* it manages are centralised and recorded immediately after receipt of that order.

...

Record keeping requirements

- 6.13.4 R (1) ~~An authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme~~ must ensure the retention of the records referred to in *COLL 6.13.2R* and *COLL 6.13.3R* for a period of at least five years or, in exceptional circumstances and where directed by the *FCA*, for a longer period, determined by the nature of the instrument or portfolio transaction, where it is necessary to enable the *FCA* to exercise its supervisory functions ~~under the UCITS Directive in respect of UCITS schemes.~~
- (2) Following the termination of its authorisation, an *authorised fund manager of a UCITS scheme or a UK UCITS management company of an EEA UCITS scheme* must retain its records referred to in (1) for the outstanding term of the five year period or, if it transfers its responsibilities in relation to the *UCITS scheme* to another *authorised fund manager or management company*, arrange for those records for the past five years to be accessible to that other manager.
- (3) The *authorised fund manager or the UK UCITS management company* must retain the records referred to in *COLL 6.13.2R* and *COLL 6.13.3R* in a medium that allows the storage of information in a way accessible for future reference by the *FCA*, and in such a form and manner that the following conditions are met:

...

Electronic data processing

- 6.13.5 R An authorised fund manager of a UCITS scheme ~~or a UK UCITS management company of an EEA UCITS scheme~~ must make appropriate arrangements for suitable electronic systems so as to permit a timely and proper recording of each portfolio transaction or subscription or redemption order, in order to be able to comply with COLL 6.13.2R (Recording of portfolio transactions) and COLL 6.13.3R (Recording of subscription and redemption orders).

[Note: article 7(1) of the UCITS implementing Directive]

- 6.13.6 R An authorised fund manager of a UCITS scheme ~~or a UK UCITS management company of an EEA UCITS scheme~~ must ensure a high level of security during the electronic data processing referred to in COLL 6.13.5R as well as the integrity and confidentiality of the recorded information, as appropriate.

[Note: article 7(2) of the UCITS implementing Directive]

...

6 Annex 2R UK UCITS management company of UCITS schemes and EEA UCITS schemes: Derivative Use Report (FSA042: UCITS)

...

...

6 Annex 3G Guidance notes on UK UCITS management company of UCITS schemes and EEA UCITS schemes: Derivative Use Report (FSA042: UCITS)

Description	Guidance
Fund name	This is the name of the <i>scheme</i> or, where applicable, of the <i>sub-fund</i> as it appears on the FS Register or, for an EEA UCITS scheme, in the prospectus.
Fund authorisation	Whether the <i>scheme</i> is authorised and regulated in the United Kingdom or in another EEA State.
PRN or LEI	For a <i>UCITS scheme</i> , this is the product reference number of the <i>scheme</i> or, where applicable, of the <i>sub-fund</i> which appears on the FS Register. <i>EEA UCITS schemes</i> are not assigned a PRN. Instead, the legal entity identifier (LEI) of the <i>scheme</i> or, where applicable, of the <i>sub-fund</i>, should be indicated. Where the LEI is not available, please leave the cell blank.

...	
-----	--

7 Suspension of dealings and termination of authorised funds

7.1 Introduction

Application

7.1.1 R ...

- (2) *COLL 7.7 (UCITS mergers) applies only to a domestic UCITS merger or a cross-border UCITS merger.*

...

7.2 Suspension and restoration of dealings

Requirement

7.2.1 R ...

- (2) On suspension, the *authorised fund manager*, or the *depository* if it has required the *authorised fund manager* to suspend *dealings in units*, must:

...

- (b) as soon as practicable give written confirmation of the suspension and the reasons for it to:

(i) the *FCA*; and

(ii) ~~the *Home State regulator* in each *EEA State* in which the *authorised fund manager* holds itself out as willing to sell or redeem *units* of the *authorised fund* concerned.~~

...

- (5) The *authorised fund manager* must inform the *FCA* of the proposed restart of *dealings in units* and immediately after the restart must confirm this by giving notice to the *FCA* ~~and the authorities mentioned in (2)(b)(ii).~~

...

...

7.6 Schemes of arrangement

Schemes of arrangement: explanation

- 7.6.1 G ...
- (3) *COLL 7.6.2R(3) to (6) apply to a domestic UCITS merger and cross-border UCITS merger. Arrangements constituting any such merger are in addition subject to the requirements of COLL 7.7 (UCITS mergers), implementing the requirements of the UCITS Directive.*

Schemes of arrangement: requirements

- 7.6.2 R ...
- (2) For a *UCITS scheme* or a *sub-fund* of a *UCITS scheme*, (1) applies as if the reference to a *regulated collective investment scheme* also excludes any *recognised scheme* which is authorised under the UCITS Directive in an EEA State but was not a other than a scheme 'recognised scheme' under section 264 of the Act (Schemes constituted in other EEA States) immediately before exit day.
- ...

7.7 UCITS mergers

Application

- 7.7.1 R This section applies to an *ICVC*, an *authorised fund manager* of an *AUT*, *ACS* or *ICVC*, any other *director* of an *ICVC* and the *depository* of any such *scheme* where, in each case, the *AUT*, *ACS* or *ICVC* is a *UCITS scheme* that is a party to:
- (1) *a domestic UCITS merger*; ~~or~~
- (2) ~~a cross-border UCITS merger.~~ [deleted]
- 7.7.2 G (1) The effect of *COLL 7.7.1R*, and in particular the narrow *Glossary* definition of *domestic UCITS merger* ~~which is drafted in accordance with article 2.1(r) of the UCITS Directive~~, is that this section will not apply to a merger in the *United Kingdom* between two or more *UCITS schemes* unless one of them ~~has been~~ was the subject of a *UCITS marketing notification* before exit day.
- (2) ~~For arrangements to constitute a cross-border UCITS merger, at least two of the relevant UCITS must be:~~
- (a) ~~established in different EEA States; or~~
- (b) ~~established in the same EEA State and be merging into a newly constituted UCITS established in another EEA State.~~ [deleted]

References to a UCITS scheme

- 7.7.3 R In this section references to:
- (1) a *UCITS scheme*, a *merging UCITS*, or to a receiving UCITS ~~or to an EEA UCITS scheme~~ include the *sub-fund* of any such *scheme*;
 - (2) ~~the management company of an EEA UCITS scheme are to the operator of the scheme.~~ [deleted]

[**Note:** article 37 of the *UCITS Directive*]

UCITS mergers

- 7.7.4 R A *domestic UCITS merger* between two or more *UCITS schemes*, ~~or a cross-border UCITS merger between one or more UCITS schemes~~ which is or are ~~the merging UCITS and one or more EEA UCITS schemes~~, is permissible provided:

...

- (2) in the case of a *UCITS scheme* that is:
 - (a) a *merging UCITS* ~~in a domestic or cross-border UCITS merger~~, an *extraordinary resolution* is approved by *unitholders* in accordance with *COLL 7.6.2R(3)* and (4) (*Schemes of arrangement: requirements*); and
 - (b) a *receiving UCITS* ~~in a domestic or cross-border UCITS merger~~, the *authorised fund manager* and *depository* of the *AUT* or *ACS* and the *directors* of the *ICVC* comply with *COLL 7.6.2R(5)* and (6).

[**Note:** articles 39(1), 39(4) and 44 first paragraph of the *UCITS Directive*]

...

UCITS Regulations 2011

- 7.7.6 G (1) The requirements and the process which must be followed to give effect to a proposal for a ~~*UCITS merger*~~ *domestic UCITS merger* as specified by Chapter VI of the *UCITS Directive* (see articles 37 to 48) ~~have been~~ are implemented in the United Kingdom by the provisions of in Part 4 of the *UCITS Regulations 2011*. The main features of the regime as set out in those provisions include:
- (a) ~~the different types of merger operation that will be recognised for a UCITS merger~~ the merger must be a *domestic UCITS merger* which takes the form of a *scheme of arrangement*;

(b) the need for the *FCA* to give prior approval to the proposed merger under regulation 9 (Application for authorisation) of the *UCITS Regulations 2011*, ~~where the arrangements proposed constitute either;~~

(i) ~~a domestic UCITS merger; or~~

(ii) ~~a cross-border UCITS merger in which the merging UCITS is a UCITS scheme (a UK UCITS);~~

...

...

Common draft terms of merger

7.7.7 R (1) The *authorised fund manager* of a *UCITS scheme* that is a *merging UCITS* or a *receiving UCITS* in a proposed *UCITS merger*, must in conjunction with any other *authorised fund manager* ~~or, as the case may be, management company of an EEA UCITS scheme that is a party to the proposed merger~~, draw up common draft terms of the proposed *UCITS merger*.

(2) The common draft terms in (1) must set out the following particulars:

(a) ~~an identification of the type of UCITS merger and of the UCITS involved;~~

...

...

Information to be given to unitholders

7.7.10 R ...

(2) Where a *UCITS scheme* is the *merging UCITS* in a *domestic UCITS merger* ~~or cross-border UCITS merger~~, its *authorised fund manager* must provide the information *document* in (1):

(a) to the *unitholders* of the *merging UCITS* and the *receiving UCITS* only after the *FCA* has given its approval to the *UCITS merger* proposal under regulation 9 of the *UCITS Regulations 2011*; ~~and~~

(b) ~~where the receiving UCITS (in the case of a cross-border UCITS merger) is an EEA UCITS scheme, to the unitholders of that scheme only after the Home State regulator of each merging UCITS has authorised the UCITS merger proposal under national measures implementing article 39 of the UCITS~~

Directive; [deleted]

~~and in either case must do so~~ at least 30 days before the last date by which *unitholders* may request repurchase or *redemption* of their *units* or, where applicable, conversion without additional charge.

- (3) The information *document* to be provided to the *unitholders* of the *merging UCITS* and the *receiving UCITS* under (1) must include the following:

...

- (c) any specific rights *unitholders* have in relation to the proposed *UCITS merger*, including but not limited to:

...

- (ii) the right to obtain a copy of the report of the independent auditor or the *depository* on request prepared for the purposes of regulation 11 of the *UCITS Regulations 2011* ~~or, if applicable, the equivalent national implementing measure of the *UCITS Home State*;~~
- (iii) the right to request the repurchase or *redemption* or, where applicable, the conversion of their *units* without charge under regulation 12 of the *UCITS Regulations 2011* ~~or, if applicable, the equivalent national implementing measure of the *UCITS Home State*;~~ and

...

...

- (4) If a *UCITS marketing notification* in respect of the *merging UCITS* or *receiving UCITS* has been made, the information *document* referred to in (3) must be provided in the official language, or one of the official languages, of the relevant ~~*Host EEA State*~~ in which *units* of the *UCITS scheme* ~~are to be~~ have been marketed, or in a language approved by ~~its *Host State regulator*~~ the overseas regulator in that *EEA State*. The *authorised fund manager* of the relevant *UCITS scheme* must provide an accurate translation of the information *document*.

[**Note:** article 43(1), 43(2), 43(3) and 43(4) of the *UCITS Directive*]

General rules regarding the content of merger information to be provided to unitholders

7.7.11 R ...

- (2) ~~In the case of a proposed cross-border UCITS merger, the authorised fund manager of the UCITS scheme, being either the merging UCITS or the receiving UCITS respectively, must explain in plain language any terms or procedures relating to the EEA UCITS scheme which differ from those commonly used in the United Kingdom. [deleted]~~

...

7.7.12 G ...

- (2) The reference to “conversion” in COLL 7.7.10R(2) means an exchange of *units* in the *merging UCITS* or *receiving UCITS* for *units* in another *UCITS scheme* ~~or EEA UCITS scheme~~ that has similar investment policies and that is managed by the same *authorised fund manager* or one of its *affiliated companies*.

[Note: recital (1) of the *UCITS implementing Directive No 2*]

Specific rules regarding the content of merger information to be provided to unitholders of the merging UCITS

- 7.7.13 R (1) ~~Where the merging UCITS is a UCITS scheme, the~~ The information document that its the authorised fund manager of a merging UCITS must provide to its *unitholders* under COLL 7.7.10R(3)(b) must also include:

...

...

Specific rules regarding the content of merger information to be provided to unitholders of the receiving UCITS

- 7.7.14 R (1) ~~Where the receiving UCITS is a UCITS scheme, the~~ The information that its the authorised fund manager of a receiving UCITS must provide to its *unitholders* under COLL 7.7.10R(3)(b) must also include an explanation of whether the *authorised fund manager* expects the merger to have any material effect on the portfolio of the *receiving UCITS*, and whether it intends to undertake any rebalancing of the portfolio either before or after the merger takes effect.

...

...

Key investor information

...

- 7.7.17 R (1) ~~Where a UCITS scheme is the receiving UCITS in a cross-border UCITS merger, its authorised fund manager must ensure that an up-to-date version of the key investor information document of the receiving UCITS is made available to the management company of the merging UCITS for the purpose of providing it to investors in that UCITS.~~
- (2) ~~Where the key investor information document of the receiving UCITS has been amended for the purpose of (1), the authorised fund manager of the receiving UCITS must also provide it to all its existing unitholders. [deleted]~~
- ~~[Note: article 5(2) of the UCITS implementing Directive No 2]~~

...

Effective merger date, exchange ratio calculation date and publication of merger

- 7.7.21 G ...
- (2) ~~For a UCITS scheme which is the receiving UCITS in a cross-border UCITS merger, the effective date of the merger will be the date agreed by the FCA and the merging UCITS' Home State regulator. [deleted]~~
- (3) ~~For a UCITS scheme which is the receiving UCITS in a domestic UCITS merger or a cross-border UCITS merger:~~
- ...
- (4) ~~For a UCITS scheme which is the merging UCITS in a cross-border UCITS merger, the dates referred to in (2) and (3)(a) will be determined by the laws of the receiving UCITS Home State. Those dates will be after the date on which the merger proposal has been approved in accordance with COLL 7.7.4 R (2)(a) (UCITS mergers). [deleted]~~

[Note: article 47 of the UCITS Directive]

Confirmation obligation on completion of a UCITS merger

- 7.7.22 R The authorised fund manager of a UCITS scheme ~~that is the receiving UCITS in either a domestic or cross-border UCITS merger~~ must confirm in writing to the depositary of the UCITS scheme and the FCA that the merger transfer is complete.
- [Note: article 48(4) of the UCITS Directive]

...

9 Recognised schemes

...

9.2 Section 264 recognised schemes ~~[deleted]~~

- 9.2.1 G (1) ~~{deleted}~~
- (2) ~~{deleted}~~
- (3) ~~{deleted}~~
- (4) ~~{deleted}~~

Marketing of units of an EEA UCITS scheme

- 9.2.2 G (1) ~~The *units* of an *EEA UCITS scheme* in respect of which a notification has been transmitted to the *FSA* by the *competent authority* of the *UCITS Home State* in accordance with article 93 of the *UCITS Directive* may be marketed in the *United Kingdom*. This is the effect of section 264 (Schemes constituted in other EEA States) read in conjunction with section 238(4)(e) (Restrictions on promotion) of the *Act*.~~
- (2) ~~Where a *management company* wishes to market the *units* of an *EEA UCITS scheme* it manages, without establishing a *branch* or providing any other services in the *United Kingdom*, a *management company passport* is not required for such *marketing* activities.~~
- (3) ~~In this Chapter references to an *EEA UCITS scheme* include its *sub-funds*.~~
- ~~[**Note:** article 16(1) second paragraph, article 91(1) and 91(4) of the *UCITS Directive*]~~

9.3 Section 272 recognised schemes

...

Additional information required in the prospectus for an application under section 272

- 9.3.2 R ~~An operator of a *scheme* recognised under section 272 of the *Act* recognised scheme must ensure the prospectus:~~

...

Preparation and maintenance of prospectus

- 9.3.3 R (1) ~~An operator of a *scheme* which is a *recognised scheme* by virtue of section 272 of the *Act* must comply with the requirements set out in COLL 4.2 (Pre-sale notifications).~~
- (2) ~~Where a *scheme* recognised under sections 272 of the *Act*~~

recognised scheme is managed and authorised in Guernsey, Jersey or the Isle of Man, the *prospectus* need not comply with the requirements of *COLL* 4.2.5R (Table: contents of prospectus), providing it contains corresponding matter required under the law in its home territory.

Preparation of a key information document in accordance with the PRIIPs regulation

9.3.4 G ...

- (3) As a result, when a *recognised scheme* ~~under section 272 of the Act~~ is made available to *retail clients* in the *United Kingdom* the operator must draw up a *key information document* in accordance with the *PRIIPs Regulation*, unless the operator of such a scheme is otherwise exempt from such a requirement under the *PRIIPs Regulation* for the time being.

9.4 Facilities in the United Kingdom

General

9.4.1 R (1) The *operator* of a *recognised scheme* ~~under section 264 or section 272 of the Act~~ must maintain facilities in the *United Kingdom* in order to satisfy the requirements of *COLL* 9.4.2R to *COLL* 9.4.6R.

...

Documents

9.4.2 R (1) The *operator* of a *recognised scheme* must maintain facilities in the *United Kingdom* for any *person*, for inspection (free of charge) and for the obtaining (free of charge, in the case of the *documents* at (c), (d) and (e), and otherwise at no more than a reasonable charge) of copies in English of:

...

- (c) the latest *prospectus* (which must include the address where the facilities are maintained and details of those facilities); and
- (d) for a ~~section 264~~ *recognised scheme* which is an *EEA UCITS scheme*, the *EEA key investor information document*; and
- (e) ...

(1A) ~~For a section 264 *recognised scheme*, the requirement in (1) for documents to be in English applies only to the *EEA key investor information document* referred to in (1)(d). [deleted]~~

...

...

11 Master-feeder arrangements ~~under the UCITS Directive~~ for UCITS schemes

11.1 Introduction

Application

...

11.1.1A G It may be possible for a UCITS scheme to be the feeder UCITS of a master UCITS that is an EEA UCITS scheme. In such a case, the ability of the operator, AFM, depositary, and auditor of the feeder UCITS to comply with the applicable rules may depend upon whether appropriate agreements can be reached with the management company, depositary and auditor of the master UCITS. It is not possible for an EEA UCITS scheme to be a feeder of a master UCITS scheme.

...

Table of application

11.1.2 R This table belongs to COLL 11.1.1R.

Reference	ICVC	ACD	Any other directors of an ICVC	Authorised fund manager of an AUT or ACS	Depositary of an ICVC, AUT or ACS
...					
11.3.10G	*	*	*	*	
...					

...

11.2 Approval of feeder UCITS

Explanation

11.2.1 G (1) Section 283A(1) (Master-feeder structures) of the ~~Act, in implementation of article 59(1) of the UCITS Directive,~~ provides that the operator of a UCITS scheme may not invest a higher proportion of scheme property in units of another UCITS than is permitted by rules made by the FCA ~~implementing~~ (which implemented article 55 of the UCITS Directive), unless the investment is approved by the FCA in accordance with that section.

- (2) The ~~FCA has implemented~~ relevant rule which implemented article 55(1) of the *UCITS Directive* ~~in~~ is COLL 5.2.11R(9), which provides that not more than 20% in value of a *scheme* is to consist of the *units* of any one *collective investment scheme*.

Application for approval of an investment in a master UCITS

11.2.2 R ...

- (2) Where the *master UCITS* is an *EEA UCITS scheme*, the application for approval must also be accompanied by an attestation ~~by the~~ master UCITS's Home State regulator from a person acceptable to the FCA that the *master UCITS*:

...

...

11.3 Co-ordination and information exchange for master and feeder UCITS

Authorised fund manager of a master UCITS: provision of documentation

- 11.3.1 R The *authorised fund manager* of a *UCITS scheme* that is a *master UCITS* must provide the *management company* of its *feeder UCITS* with all *documents* and information necessary for the latter to meet its regulatory obligations under the ~~*UCITS Directive*~~ provisions of COLL applicable in respect of a *UCITS scheme* under this chapter.

[Note: article 60(1) first paragraph first sentence of the *UCITS Directive*]

- 11.3.1A R The *authorised fund manager* of a *UCITS scheme* that is a *feeder UCITS* of a *master UCITS* which is an *EEA UCITS scheme* must make a binding arrangement with the *management company* of the *master UCITS* to obtain all *documents* and information necessary to meet its regulatory obligations under the *Act*.

[Note: article 60(1) first paragraph first sentence of the *UCITS Directive*]

Master-feeder agreement and internal conduct of business rules

...

- 11.3.3 G Where an *authorised fund manager* of a *feeder UCITS* enters into a *master-feeder agreement* or, if applicable, internal conduct of business rules, with the *management company* of an *EEA UCITS scheme*, references in COLL 11 Annex 1R and COLL 11 Annex 2R to ~~*COLL rules implementing that implemented*~~ provisions in the *UCITS Directive* which are the responsibility of the *EEA UCITS scheme's Home State regulator* should be read as referring to the corresponding provisions in the laws and regulations of that *EEA State*.

...

Law applicable to the master-feeder agreement

- 11.3.5 R ...
- (2) Where the ~~feeder UCITS and the master UCITS are~~ is established in ~~different an EEA States~~ State, the ~~master-feeder agreement~~ must provide that the applicable law shall be ~~either UK law;~~
- (a) ~~the law of the EEA State in which the feeder UCITS is established; or~~
- (b) ~~the law of the EEA State in which the master UCITS is established;~~
- and that both parties agree to the exclusive jurisdiction of the courts of the ~~EEA State whose law they have stipulated to be applicable to the agreement~~ UK.

[**Note:** article 14 of the *UCITS implementing Directive No 2*]

- 11.3.5A R (1) Where paragraph (2) applies a master-feeder agreement that is effective prior to exit day need not comply with COLL 11.3.5R(2).
- (2) This paragraph applies where the applicable law of the master-feeder agreement was:
- (a) UK law before exit day, and remains so; or
- (b) the law of the EEA State in which the master UCITS was established before exit day, and remains so.

Avoidance of opportunities for market timing

- 11.3.6 R ...
- (2) Where ~~either the master UCITS or feeder UCITS~~ is an *EEA UCITS scheme* managed by an *EEA UCITS management company*, the *authorised fund manager* must co-ordinate with that *management company*.

[**Note:** article 60(2) of the *UCITS Directive*]

...

Obligations of the master UCITS

...

- 11.3.10 G ~~Where the FCA is informed in accordance with COLL 11.3.9R that a feeder UCITS which is an EEA UCITS scheme has invested in units of the master UCITS, section 261A and section 261ZA (Information for home state regulator) of the Act and regulation 29A (Information for home state~~

regulator) of the *OEIC Regulations* require the *FCA* to inform the *Home State regulator* of the *feeder UCITS* immediately. [deleted]

[~~Note: article 66(1) second sentence of the *UCITS Directive*~~]

...

11.3.12 R An *authorised fund manager* of a *master UCITS* must ensure the timely availability of all information that is required in accordance with its obligations under the *regulatory system*, the general law and the *instrument constituting the fund*, to:

...

(2) the ~~competent authority~~ of the *feeder UCITS FCA*;

...

...

11.4 Depositories

...

Contents of the information-sharing agreement between depositories

11.4.2 R ...

(2) Where a *master-feeder agreement* exists in accordance with *COLL 11.3.2R(1)* (Master-feeder agreement and internal conduct of business rules), the information-sharing agreement between the *depositories* must provide that UK law applies to that agreement, and both *depositories* agree to the exclusive jurisdiction of the UK courts in relation to that agreement.;

(a) the law of the ~~EEA State~~ applying to the *master-feeder agreement* will also apply to the information-sharing agreement; and

(b) both *depositories* agree to the ~~exclusive jurisdiction of the courts of that EEA State.~~

(3) Where the *master-feeder agreement* has been replaced by internal conduct of business rules in accordance with *COLL 11.3.2R(2)* (Master-feeder agreement and internal conduct of business rules), the information-sharing agreement between the *depositories* must provide that UK law applies to that agreement, and both *depositories* agree to the exclusive jurisdiction of the UK courts in relation to that agreement.;

(a) the law applying to the information-sharing agreement shall be either that of the *EEA State* in which the *feeder UCITS* is established or, where different, that of the *EEA State* in which

~~the master UCITS is established; and~~

- (b) ~~both depositaries agree to the exclusive jurisdiction of the courts of the EEA State whose law is applicable to the information sharing agreement.~~

[Note: articles 24 and 25 of the *UCITS implementing Directive No 2*]

11.4.2A R (1) Where paragraph (2) applies, an information-sharing agreement between the depositaries that is effective prior to exit day need not comply with COLL 11.4.2R.

(2) This paragraph applies where the applicable law of the information sharing agreement between the depositaries was:

(a) UK law before exit day, and remains so; or

(b) the law of a given EEA State before exit day, and remains so.

...

11.5 Auditors

...

Contents of the information-sharing agreement between auditors

11.5.2 R ...

(3) Where a master-feeder agreement exists in accordance with COLL 11.3.2R(1) (Master-feeder agreement and internal conduct of business rules), the information-sharing agreement between the auditors must provide that UK law applies to that agreement, and both auditors agree to the exclusive jurisdiction of the UK courts in relation to that agreement.:

(a) ~~the law of the EEA State applying to the master-feeder agreement will also apply to the information sharing agreement between auditors; and~~

(b) ~~both auditors agree to the exclusive jurisdiction of the courts of that EEA State.~~

(4) Where the master-feeder agreement has been replaced by internal conduct of business rules in accordance with COLL 11.3.2R(2) (Master-feeder agreement and internal conduct of business rules), the information-sharing agreement between the auditors must provide that UK law applies to that agreement, and both auditors agree to the exclusive jurisdiction of the UK courts in relation to that agreement.:

(a) ~~the law applying to the information sharing agreement shall be~~

either that of the *EEA State* in which the *feeder UCITS* is established or, where different, that of the *EEA State* in which the *master UCITS* is established; and

- (b) ~~both auditors agree to the exclusive jurisdiction of the courts of the *EEA State* whose law is applicable to the information-sharing agreement.~~

[**Note:** articles 27 and 28 of the *UCITS implementing Directive No 2*]

- 11.5.2A R (1) An information-sharing agreement between the auditors that is effective prior to *exit day* need not comply with COLL 11.5.2R.
- (2) This paragraph applies where the applicable law of the *information-sharing agreement* between the auditors was:
- (a) United Kingdom law before *exit day*, and remains so; or
 - (b) the law of a given *EEA State* before *exit day*, and remains so.

...

11.6 Winding up, merger and division of master UCITS

Explanation

- 11.6.1 G (1) Section 258A(1) and (2) and section 261Z(1) and (2) (Winding up or merger of master UCITS) of the *Act*, ~~in implementation of article 60 of the *UCITS Directive*,~~ provide that where a *master UCITS* is wound up, for whatever reason, the *FCA* is to direct the *manager* and *trustee* of any *AUT* or the *authorised contractual scheme manager* and *depository* of any *ACS* which is a *feeder UCITS* of the *master UCITS* to wind up the *scheme*, unless one of the following conditions is satisfied:

...

...

Winding up and liquidation of master UCITS: Time limit within which a master UCITS is to be wound up pursuant to *FCA* direction

- 11.6.2 R (1) The commencement of winding up of a *UCITS scheme* that is a *master UCITS* must take place no sooner than 3 months after a notification is made to its *unitholders* and, ~~where applicable, the *competent authorities* of the *feeder UCITS Home State*,~~ the *FCA* informing ~~them~~ it of the binding decision to wind up the *master UCITS*.

...

...

Repurchase or redemption of units in a master UCITS

- 11.6.8 G Regulation 12(4) (Right of redemption) of the *UCITS Regulations 2011* provides that where a UK master UCITS merges with another *scheme*, the master UCITS must enable its *feeder UCITS* to repurchase or *redeem* all the *units* of the master UCITS in which they have invested before the consequences of the merger become effective, unless the FCA approves the continued investment by the *feeder UCITS* in a master UCITS resulting from the merger.

...

COLL 12 (Management company and product passports under the UCITS Directive) is deleted in its entirety. The deleted text of the chapter is not shown but it is marked [deleted] as shown below.

12 Management company and product passports under the UCITS Directive
[deleted]

Amend the following as shown.

Appendix KII Regulation
ix ~~EU~~
UK

...

CHAPTER I

SUBJECT MATTER AND GENERAL PRINCIPLES

...

Article 1A

Definitions

- (a) ‘Collective Investment Schemes sourcebook’ means the Collective Investment Schemes sourcebook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000 as in force on exit day.

- (b) ‘feeder UCITS’ has the meaning given in section 237(3) of the Financial Services and Markets Act 2000;
- (c) ‘management company’ has the meaning given in section 237(2) of the Financial Services and Markets Act 2000;
- (d) ‘master UCITS’ has the meaning given in section 237(3) of the Financial Services and Markets Act 2000;
- (e) ‘UCITS’ has the meaning given in section 236A of the Financial Services and Markets Act 2000; and
- (f) ‘UK UCITS’ has the meaning given in section 237(3) of the Financial Services and Markets Act 2000.

Article 2

General principles

1. Requirements laid down in this Regulation shall apply to any management company with regard to each ~~UCITS~~ UK UCITS it manages.
2. This Regulation shall apply to any investment company which has not designated a management company ~~authorised pursuant to Directive 2009/65/EC that has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity specified in article 51ZA of the Regulated Activities Order 2001.~~

Article 3

Principles regarding the key investor information document

...

3. The key investor information document shall be provided in such a way as to ensure that investors are able to distinguish it from other material. In particular, it shall not be presented or delivered in a way that is likely to lead investors to consider it less important than other information about the ~~UCITS~~ UK UCITS and its risks and benefits.

CHAPTER II

FORM AND PRESENTATION OF KEY INVESTOR INFORMATION

SECTION 1

Title of document, order of contents and headings of sections

Article 4

Title and content of document

...

4. The identification of the ~~UCITS~~ UK UCITS, including the share class or investment compartment thereof, shall be stated prominently. In the case of an investment compartment or share class, the name of the ~~UCITS~~ UK UCITS shall follow the compartment or share class name. Where a code number identifying the ~~UCITS~~ UK UCITS, investment compartment or share class exists, it shall form part of the identification of the ~~UCITS~~ UK UCITS.

...

12. Authorisation details shall consist of the following statement:

'This fund is authorised in ~~[name of Member State]~~ and regulated by ~~[identity of competent authority]~~ the United Kingdom and regulated by the Financial Conduct Authority'.

~~In cases where the UCITS is managed by a management company exercising rights under Article 16 of Directive 2009/65/EC, an additional statement shall be included:~~

~~'[Name of management company] is authorised in [name of Member State] and regulated by [identity of competent authority]'.~~

...

CHAPTER III**CONTENT OF SECTIONS OF THE KEY INVESTOR INFORMATION DOCUMENT****SECTION 1****Objectives and investment policy***Article 7***Specific contents of the description**

1. The description contained in the 'Objectives and investment policy' section of the key investor information document shall cover those essential features of the ~~UCITS~~ UK UCITS about which an investor should be informed, even if these features do not form part of the description of objectives and investment policy in the prospectus, including:

...

- (b) the possibility that the investor may redeem units of ~~UCITS~~ UK UCITS on

demand, qualifying that statement with an indication as to the frequency of dealing in units;

- (c) whether the ~~UCITS~~ UK UCITS has a particular target in relation to any industrial, geographic or other market sectors or specific classes of assets;
- (d) whether the ~~UCITS~~ UK UCITS allows for discretionary choices in regards to the particular investments that are to be made, and whether this approach includes or implies a reference to a benchmark and if so, which one;

...

For the purposes of point (d), where a reference to a benchmark is implied, the degree of freedom available in relation to this benchmark shall be indicated, and where the ~~UCITS~~ UK UCITS has an index-tracking objective, this shall be stated.

2. The description referred to in paragraph 1 shall include the following information, so long as it is relevant:

- (a) where the ~~UCITS~~ UK UCITS invests in debt securities, an indication of whether they are issued by corporate bodies, governments or other entities, and, if applicable, any minimum rating requirements;
- (b) where the ~~UCITS~~ UK UCITS is a structured fund, an explanation in simple terms of all elements necessary for a correct understanding of the pay-off and the factors that are expected to determine performance, including references, if necessary, to the details on the algorithm and its workings which appear in the prospectus;

...

- (d) where specific asset management techniques are used, which may include hedging, arbitrage or leverage, an explanation in simple terms of the factors that are expected to determine the performance of the ~~UCITS~~ UK UCITS;
- (e) where the impact of portfolio transaction costs on returns is likely to be material due to the strategy adopted by the ~~UCITS~~ UK UCITS, a statement that this is the case, making it also clear that portfolio transaction costs are paid from the assets of the fund in addition to the charges set out in Section 3 of this Chapter;
- (f) where a minimum recommended term for holding units in the ~~UCITS~~ UK UCITS is stated either in the prospectus or in any marketing documents, or where it is stated that a minimum holding period is an essential element of the investment strategy, a statement with the following wording:

'Recommendation: this fund may not be appropriate for investors who plan to withdraw their money within [period of time]'.

...

4. The ‘Objectives and investment policy’ section of the key investor information document may contain elements other than those listed in paragraph 2, including the description of the ~~UCITS~~ UK UCITS’ investment strategy, where these elements are necessary to adequately describe the objectives and investment policy of the ~~UCITS~~ UK UCITS.

SECTION 2

Risk and reward profile

Article 8

Explanation of potential risks and rewards, including the use of an indicator

1. The ‘Risk and reward profile’ section of the key investor information document shall contain a synthetic indicator, supplemented by:
- ...
- (b) a narrative explanation of risks which are materially relevant to the ~~UCITS~~ UK UCITS and which are not adequately captured by the synthetic indicator.
2. The synthetic indicator referred to in paragraph 1 shall take the form of a series of categories on a numerical scale with the ~~UCITS~~ UK UCITS assigned to one of the categories. The presentation of the synthetic indicator shall comply with the requirements laid down in Annex I.
- ...
4. The narrative explanation referred to in paragraph 1(a) shall include the following information:
- (a) a statement that historical data, such as is used in calculating the synthetic indicator, may not be a reliable indication of the future risk profile of the ~~UCITS~~ UK UCITS;
- (b) a statement that the risk and reward category shown is not guaranteed to remain unchanged and that the categorisation of the ~~UCITS~~ UK UCITS may shift over time;
- ...
- (d) a brief explanation as to why the ~~UCITS~~ UK UCITS is in a specific category;
- (e) details of the nature, timing and extent of any capital guarantee or protection offered by the ~~UCITS~~ UK UCITS, including the potential effects of redeeming units outside of the guaranteed or protected period.
5. The narrative explanation referred to in paragraph 1(b) shall include the following

categories of risks, where these are material:

...

- (b) liquidity risk, where a significant level of investment is made in financial instruments, which are by their nature sufficiently liquid, yet which may under certain circumstances have a relatively low level of liquidity, so as to have an impact on the level of liquidity risk of the ~~UCITS~~ UK UCITS as a whole;

...

- (e) impact of financial techniques as referred to in ~~Article 50(1)(g) of Directive 2009/65/EC~~ [*COLL* 5.2.19R] such as derivative contracts on the ~~UCITS~~ UK UCITS' risk profile where such techniques are used to obtain, increase or reduce exposure to underlying assets.

Article 9

Principles governing the identification, explanation and presentation of risks

The identification and explanation of risks referred to in Article 8(1)(b) shall be consistent with the internal process for identifying, measuring and monitoring risk adopted by the ~~UCITS~~ UK UCITS' management company as laid down in ~~Directive 2010/43/EU~~ [6.12 of *COLL*]. Where a management company manages more than one ~~UCITS~~ UK UCITS, the risks shall be identified and explained in a consistent fashion.

SECTION 3

Charges

Article 10

Presentation of charges

...

2. The table referred to in paragraph 1 shall be completed in accordance with the following requirements:
 - (a) entry and exit charges shall each be the maximum percentage which might be deducted from the investor's capital commitment to the ~~UCITS~~ UK UCITS;
 - (b) a single figure shall be shown for charges taken from the ~~UCITS~~ UK UCITS over a year, to be known as the 'ongoing charges,' representing all annual charges and other payments taken from the assets of the ~~UCITS~~ UK UCITS over the defined period, and based on the figures for the preceding year;
 - (c) the table shall list and explain any charges taken from the ~~UCITS~~ UK UCITS under certain specific conditions, the basis on which the charge is calculated, and when the charge applies.

*Article 11***Explanation of charges and a statement about the importance of charges**

...

2. The ‘Charges’ section shall contain a statement about the importance of charges which shall make clear that the charges an investor pays are used to pay the costs of running the UCITS UK UCITS, including the costs of marketing and distributing the UCITS UK UCITS, and that these charges reduce the potential growth of the investment.

*Article 12***Additional requirements**

...

2. Where the impact of portfolio transaction costs on returns is likely to be material due to the strategy adopted by the UCITS UK UCITS, this shall be stated within the ‘Objectives and investment policy’ section, as indicated in Article 7(2)(e).
3. Performance fees shall be disclosed in accordance with Article 10(2)(c). The amount of the performance fee charged during the UCITS UK UCITS’ last financial year shall be included as a percentage figure.

*Article 13***Specific cases**

1. Where a new UCITS UK UCITS cannot comply with the requirements contained in Article 10(2)(b) and Article 11(1)(b), the ongoing charges shall be estimated, based on the expected total of charges.

...

*Article 14***Cross-referencing**

The ‘Charges’ section shall include, where relevant, a cross-reference to those parts of the UCITS UK UCITS prospectus where more detailed information on charges can be found, including information on performance fees and how they are calculated.

SECTION 4**Past performance***Article 15***Presentation of past performance**

1. The information about the past performance of the ~~UCITS~~ UK UCITS shall be presented in a bar chart covering the performance of the ~~UCITS~~ UK UCITS for the last 10 years.
...
2. ~~UCITS~~ UK UCITS with performance of less than 5 complete calendar years shall use a presentation covering the last 5 years only.
...
4. For a ~~UCITS~~ UK UCITS which does not yet have performance data for one complete calendar year, a statement shall be included explaining that there is insufficient data to provide a useful indication of past performance to investors.
5. The bar chart layout shall be supplemented by statements which appear prominently and which:
...
(d) indicate the currency in which past performance has been calculated.

The requirement laid down in point (b) shall not apply to ~~UCITS~~ UK UCITS which do not have entry or exit charges.
...

Article 16

Past performance calculation methodology

The calculation of past performance figures shall be based on the net asset value of the ~~UCITS~~ UK UCITS, and they shall be calculated on the basis that any distributable income of the fund has been reinvested.

Article 17

Impact and treatment of material changes

1. Where a material change occurs to a ~~UCITS~~ UK UCITS' objectives and investment policy during the period displayed in the bar chart referred to in Article 15, the ~~UCITS~~ UK UCITS' past performance prior to that material change shall continue to be shown.
...

Article 18

Use of a benchmark alongside the past performance

1. Where the 'Objectives and investment policy' section of the key investor information document makes reference to a benchmark, a bar showing the

performance of that benchmark shall be included in the chart alongside each bar showing the ~~UCITS~~ UK UCITS' past performance.

2. For ~~UCITS~~ UK UCITS which do not have past performance data over the required five or 10 years, the benchmark shall not be shown for years in which the ~~UCITS~~ UK UCITS did not exist.

Article 19

Use of 'simulated' data for past performance

1. A simulated performance record for the period before data was available shall only be permitted in the following cases, provided that its use is fair, clear and not misleading:
 - (a) a new share class of an existing ~~UCITS~~ UK UCITS or investment compartment may simulate its performance by taking the performance of another class, provided the two classes do not differ materially in the extent of their participation in the assets of the ~~UCITS~~ UK UCITS;
 - ...
- ...
3. A ~~UCITS~~ UK UCITS changing its legal status ~~but remaining established in the same Member State~~ shall retain its performance record only where the ~~competent authority of the Member State~~ Financial Conduct Authority reasonably assesses that the change of status would not impact the ~~UCITS~~ UK UCITS' performance.
4. In the case of mergers ~~referred to in Article 2(1)(p)(i) and (iii) of Directive 2009/65/EC~~, as defined in regulation 7 of the Undertakings for Collective Investment in Transferable Securities Regulations 2011, only the past performance of the receiving ~~UCITS~~ UK UCITS shall be maintained in the key investor information document.

SECTION 5

Practical information and cross-references

Article 20

Content of 'practical information' section

1. The 'Practical information' section of the key investor information document shall contain the following information relevant to investors in ~~every Member State in which the UCITS is marketed~~ the United Kingdom:
 - ...
 - (b) where and how to obtain further information about the ~~UCITS~~ UK UCITS, copies of its prospectus and its latest annual report and any subsequent half-yearly report, stating in which language(s) those documents are available,

and that they may be obtained free of charge;

...

- (d) a statement that the tax ~~legislation~~ position of the ~~UCITS' UK UCITS home Member State~~ may have an impact on the personal tax position of the investor;
- (e) the following statement:

'[Insert name of investment company or management company] may be held liable solely on the basis of any statement contained in this document that is misleading, inaccurate or inconsistent with the relevant parts of the prospectus for the UCITS UK UCITS.'

- 2. Where the key investor information document is prepared for a ~~UCITS UK~~ UCITS investment compartment, the 'Practical information' section shall include the information specified in Article 25(2) including on investors' rights to switch between compartments.

...

Article 21

Use of cross-references to other sources of information

- 1. ...

Cross-references shall be permitted to the website of the ~~UCITS UK UCITS~~ or the management company, including a part of any such website containing the prospectus and the periodic reports.

...

SECTION 6

Review and revision of the key investor information document

...

Article 23

Publication of the revised version

...

- 3. A key investor information document with duly revised presentation of past performance of the ~~UCITS UK UCITS~~ shall be made available no later than 35 business days after 31 December each year.

Article 24

Material changes to the charging structure

...

2. Where the ‘ongoing charges’ calculated in accordance with Article 10(2)(b) are no longer reliable, the management company shall instead estimate a figure for ‘ongoing charges’ that it believes on reasonable grounds to be indicative of the amount likely to be charged to the ~~UCITS~~ UK UCITS in future.

This change of basis shall be disclosed through the following statement:

‘The ongoing charges figure shown here is an estimate of the charges. [Insert short description of why an estimate is being used rather than an ex-post figure.] The ~~UCITS~~ UK UCITS’ annual report for each financial year will include detail on the exact charges made.’

CHAPTER IV

PARTICULAR ~~UCITS~~ UK UCITS STRUCTURES

SECTION 1

Investment compartments

Article 25

Investment compartments

1. Where a ~~UCITS~~ UK UCITS consists of two or more investment compartments a separate key investor information document shall be produced for each individual compartment.
2. Each key investor information document referred to in paragraph 1 shall indicate within the ‘practical information’ section the following information:
 - (a) that the key investor information document describes a compartment of a ~~UCITS~~ UK UCITS, and, if it is the case, that the prospectus and periodic reports are prepared for the entire ~~UCITS~~ UK UCITS named at the beginning of the key investor information document;

...

...

SECTION 2

Share classes

Article 26

Key investor information document for share classes

1. Where a ~~UCITS~~ UK UCITS consists of more than one class of units or shares, the key investor information document shall be prepared for each class of units or shares.
2. The key investor information pertinent to two or more classes of the same ~~UCITS~~ UK UCITS may be combined into a single key investor information document, provided that the resulting document fully complies with all requirements as laid down in Section 2 of Chapter II, including as to length.
3. The management company may select a class to represent one or more other classes of the ~~UCITS~~ UK UCITS, provided the choice is fair, clear and not misleading to potential investors in those other classes. In such cases the 'Risk and reward profile' section of the key investor information document shall contain the explanation of material risk applicable to any of the other classes being represented. A key investor information document based on the representative class may be provided to investors in the other classes.

...

Article 27

Practical information section

If applicable, the Practical information section of the key investor information document shall be supplemented by an indication of which class has been selected as representative, using the term by which it is designated in the ~~UCITS~~ UK UCITS' prospectus.

That section shall also indicate where investors can obtain information about the other classes of the ~~UCITS~~ UK UCITS that are marketed in ~~their own Member State~~ the UK.

SECTION 3

Fund of funds

Article 28

Objectives and investment policy section

Where the ~~UCITS~~ UK UCITS invests a substantial proportion of its assets in other UCITS or other collective investment undertakings as referred to in ~~Article 50(1)(e) of Directive 2009/65/EC~~ COLL 5.2.13R, the description of the objectives and investment policy of that UCITS in the key investor information document shall include a brief explanation of how the other collective undertakings are to be selected on an ongoing basis.

Article 29

Risk and reward profile

The narrative explanation of risk factors referred to in Article 8(1)(b) shall take account of the risks posed by each underlying collective undertaking, to the extent that these are likely to be material to the ~~UCITS~~ UK UCITS as a whole.

*Article 30***Charges section**

The description of the charges shall take account of any charges that that ~~UCITS~~ UK UCITS will itself incur as an investor in the underlying collective undertakings. Specifically, any entry and exit charges and ongoing charges levied by the underlying collective undertakings shall be reflected in the ~~UCITS~~ UK UCITS' calculation of its own ongoing charges figure.

SECTION 4

Feeder UCITS*Article 31***Objectives and investment policy section**

1. The key investor information document for a feeder UCITS, ~~as defined in Article 58 of Directive 2009/65/EC~~, shall contain, in the description of objectives and investment policy, information about the proportion of the feeder UCITS' assets which is invested in the master UCITS.

...

*Article 34***Practical information section**

...

2. The information referred to in paragraph 1 shall include:

...

- (b) whether the items listed in point (a) are available in paper copies only or in other durable media, and whether any fee is payable for items not subject to free delivery in accordance with ~~Article 63(5) of Directive 2009/65/EC~~ [COLL 4.2.3R and 4.5.15R].

...

...

SECTION 5

Structured ~~UCITS~~ UK UCITS*Article 36***Performance scenarios**

1. The key investor information document for structured ~~UCITS~~ UK UCITS shall

not contain the 'Past performance' section.

For the purposes of this Section, structured ~~UCITS~~ UK UCITS shall be understood as ~~UCITS~~ UK UCITS which provide investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or ~~UCITS~~ UK UCITS with similar features.

2. For structured ~~UCITS~~ UK UCITS, the 'Objectives and investment policy' section of the key investor information document shall include an explanation of how the formula works or how the pay-off is calculated.
3. The explanation referred to in paragraph 2 shall be accompanied by an illustration, showing at least three scenarios of the ~~UCITS~~ UK UCITS' potential performance. Appropriate scenarios shall be chosen to show the circumstances in which the formula may generate a low, a medium or a high return, including, where applicable, a negative return for the investor.

4. ...

They shall be presented in a way that is fair, clear and not misleading, and that is likely to be understood by the average retail investor. In particular, they shall not artificially magnify the importance of the final performance of the ~~UCITS~~ UK UCITS.

...

Article 37

Length

The key investor information document for structured ~~UCITS~~ UK UCITS shall not exceed three pages of A4-sized paper when printed.

CHAPTER V

DURABLE MEDIUM

Article 38

Conditions applying to the provision of a key investor information document or a prospectus in a durable medium other than paper or by means of a website

1. Where, ~~for the purposes of Directive 2009/65/EC,~~ the key investor information document or prospectus is to be provided to investors using a durable medium other than paper the following conditions shall be met:

...

...

CHAPTER VI

FINAL PROVISIONS

Article 39

Entry into force

...

2. ...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

**Appendix Modifications to the KII Regulation for KII-compliant NURS
x 2R**

...

CHAPTER I

SUBJECT MATTER AND GENERAL PRINCIPLES

...

Article 1A

Definitions

[deleted]

Article 2

General principles

...

CHAPTER II

FORM AND PRESENTATION OF KEY INVESTOR INFORMATION

SECTION 1

Title of document, order of contents and headings of sections

Article 4

Title and content of document

...

12. Authorisation details shall consist of the following statement:

'This fund is authorised in the United Kingdom and regulated by the Financial Conduct Authority'.

~~In cases where the *KII-compliant NURS* is managed by an *authorised fund manager* exercising rights under Article 33 of Directive 2012/61/EU (AIFMD), an additional statement shall be included:~~

~~*'[Name of authorised fund manager] is authorised in [name of Member State] and regulated by [identity of competent authority]'.*~~

Annex B

Amendments to the Credit Unions sourcebook (CREDS)

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

2 Senior management arrangements, systems and controls

2.1 Application and purpose

Application

...

Purpose

- 2.1.2 G The purpose of this chapter is to provide *rules* and *guidance* relating to senior management arrangements, systems and controls that are specific to *credit unions*.

...

- 2.1.3 G ...

(3) ~~SYSC 4 to SYSC 10 (other than SYSC 6.1.1R (which only applies to a limited extent) and SYSC 6.3) do not apply to a firm (including a credit union) in relation to its carrying on of auction regulation bidding (see SYSC 1 Annex 1 for the detailed rules on the application of SYSC 4 to SYSC 10). [deleted]~~

...

10 Application of other parts of the Handbook to credit unions

10.1 Application and purpose

...

Application of other parts of the Handbook and of Regulatory Guides to Credit Unions

- 10.1.3

Module	Relevance to Credit Unions
...	...
Banking: Conduct of Business sourcebook	<i>BCOBS</i> sets out <i>rules</i> and <i>guidance</i> for <i>credit unions</i> on how they should conduct their business with their <i>customers</i> . In particular there are <i>rules</i> and <i>guidance</i> relating to communications with <i>banking customers</i> and <i>financial</i>

(BCOBS)	<p><i>promotions (BCOBS 2), distance communications (BCOBS 3), information to be communicated to banking customers (BCOBS 4), post sale requirements (BCOBS 5), and cancellation (BCOBS 6). The rules in BCOBS 3.1 that relate to distance contracts may apply to a credit union. This is because <u>BCOBS 3 contains requirements which implemented the Distance Marketing Directive</u> applies where there is “an organised distance sales or service-provision scheme run by the supplier” (Article 2(a) of the <u>Distance Marketing Directive</u>), i.e. if the <i>credit union</i> routinely sells any of its services by post, telephone, fax or the internet.</i></p>
...	

Annex C

Amendments to the Consumer Credit sourcebook (CONC)

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

1 Application and purpose and guidance on financial difficulties

...

1.2 Who? What? Where?

...

~~EEA territorial scope rule: compatibility with European law~~

- 1.2.6 R (1) ~~CONC does not apply to an *incoming ECA provider* where, in providing a service, the provider is acting as such.~~
- (2) ~~CONC applies to an *outgoing ECA provider* where, in providing a service, the provider is acting as such.~~
- (3) ~~The territorial scope of CONC is otherwise modified to the extent necessary to be compatible with European law.~~
- (4) ~~This rule overrides every other rule in this sourcebook.~~
- ~~**Note:** article 3(3) of, and the Annex to, the *E-Commerce Directive*.
[deleted]~~

...

2 Conduct of business standards: general

...

2.7 Distance marketing

Application

- 2.7.1 R (1) Subject to (2) and (3), this section applies to a *firm* that carries on any distance marketing activity from an establishment in the *UK*, with or for a *consumer* in the *UK* ~~or another EEA State.~~

...

The distance marketing disclosure rules

- 2.7.2 R (1) Subject to (2), (3) and (4), a *firm* must provide a *consumer* with the

distance marketing information (*CONC 2 Annex 1R*) in good time before the *consumer* is bound by a *distance contract* or offer.

[**Note:** regulation 7(1) of SI 2004/2095]

[**Note:** articles 3(1) and 4(5) of the *Distance Marketing Directive*]

...

(4) ...

(a) the *firm* has disclosed the information required by regulation 10(2) of the *disclosure regulations* (authorised non-business overdraft agreements) by means of the ~~European Consumer Credit Information form~~ Pre-contract Consumer Credit Information (Overdrafts) form in accordance with the *disclosure regulations* and, unless *CONC 2.7.12R* would otherwise apply, a copy of the contractual terms and conditions;

...

...

Contracts governed by law of a third party state

2.7.17 R If a *firm* proposes to enter into a *distance contract* with a *consumer* that will be governed by the law of a country outside the ~~EEA UK~~, the *firm* must ensure that the *consumer* will not lose the protection created by the *rules* in this section if the *distance contract* has a close link with the territory of ~~or one or more EEA States~~ the UK.

[**Note:** regulation 16(3) of SI 2004/2095]

[**Note:** articles 12 and 16 of the *Distance Marketing Directive*]

2.8 E-commerce

Application

2.8.1 R This section applies to a *firm* carrying on an *electronic commerce activity* from an *establishment* in the *UK* with or for a *person* in the *UK* ~~or another EEA State~~.

Information about the firm and its products or services

2.8.2 R A *firm* must make at least the following information easily, directly and permanently accessible to the recipients of the *information society services* it provides:

(1) its name;

- (2) the geographic address at which it is established;
- (3) the details of the *firm*, including its e-mail address, which allow it to be contacted rapidly and communicated with in a direct and effective manner;
- (4) an appropriate statutory status disclosure statement (*GEN 4 Annex 1R*), together with a statement which explains that it is on the *Financial Services Register* and includes its firm reference number;
- (5) if it is a professional firm, ~~or a person regulated by the equivalent of a designated professional body in another EEA State:~~
 - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
 - (b) the professional title ~~and the EEA State where it was granted;~~
 - (c) a reference to the applicable professional rules ~~in the EEA State of establishment~~ and the means to access them; and
 - (d) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[**Note:** article 5(1) of the E-Commerce Directive]

...

2 Annex Distance marketing information 1R

This Annex belongs to *CONC 2.7.2R* (The distance marketing disclosure rules)

Information about the firm	
...	
(2)	Where the <i>firm</i> has a representative established in the consumer's EEA State of residence <i>UK</i> , the name of that representative and the geographical address relevant for the <i>consumer's</i> relations with that representative.
...	
(16)	The EEA State or States whose laws are taken by the firm as a basis for the establishment of relations with the consumer prior to the conclusion of the contract. [deleted]
...	

3 Financial promotions and communications with customers

3.1 Application

...

Where?

3.1.9 R This chapter applies to a *firm* in relation to:

- (1) ... ; and
- (2) ... ; and
- (3) ~~the communication or approval for communication of a financial promotion that is an electronic commerce communication to a person in an EEA State other than the UK; [deleted]~~

...

Annex D

Amendments to the Investment Funds sourcebook (FUND)

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

1 Introduction

1.1 Application and purpose

- 1.1.1 R (1) The application of this sourcebook is summarised at a high level in the following table. The detailed application is provided in each chapter.

Type of firm	Applicable chapters
...	
<i>full-scope UK AIFM of an ELTIF <u>LTIF</u></i>	Chapters 1, 3, 4.2 and 10
<i>full-scope UK AIFM of an EEA AIF</i>	Chapters 1, 3 and 10
<i>full-scope UK AIFM of a non-EEA AIF <u>non-UK AIF</u></i>	Chapters 1, 3 and 10
...	
<i>incoming EEA AIFM branch of a <u>UK AIF</u></i>	Chapters 1, 3 and 10
...	
<i>depository of a UK ELTIF <u>an LTIF</u> managed by a full-scope UK AIFM</i>	Chapters 1, 3 and 4.2
<i>depository of a UK ELTIF managed by a full-scope EEA AIFM</i>	Chapters 1, 3 and 4.2

- (2) ...
- (3) FUND 10 will apply to a UK AIFM ~~or incoming EEA AIFM~~ which intends to ~~passport or market~~ on a cross-border basis.

Compatibility with ~~European law~~ AIFMD and the AIFMD level 2 regulation

- 1.1.2 R *Handbook rules* which conflict with either a *rule* which ~~transposes~~ transposed *AIFMD* or a provision in the *AIFMD level 2 regulation* are modified to the extent necessary to be compatible with ~~European law~~ those *rules* and provisions.

...

1.2 Structure of the Investment Funds sourcebook

Structure of the Investment Funds sourcebook

- 1.2.1 G *FUND* is structured as follows:

...

- (4) *FUND* 4 sets out some requirements in relation to ~~European AIF~~ specialist AIF regimes, including the LTIF regimes.

...

1.3 Types of fund manager

Types of fund manager within the scope of ~~European legislation~~ the UK AIFM and UCITS regimes

- 1.3.1 G The *UK* regulatory regime provides that an *undertaking* which manages an *AIF* or ~~UCITS~~ a *UCITS scheme* in the *UK* and ~~is within the scope of~~ *AIFMD* or the *UCITS Directive* must fall into one or both of the following categories:

- (1) an *AIFM*; or
- (2) a *UCITS management company*.

Types of fund manager outside the scope of ~~European legislation~~ the UK AIFM and UCITS regimes

- 1.3.2 G An *authorised person* that operates a *collective investment scheme* in the *UK* and falls entirely outside the scope of ~~*AIFMD*~~ the *UK AIFM* or the *UCITS Directive regimes* will be a *residual CIS operator*.

...

Full-scope UK AIFM

- 1.3.4 G (1) A *full-scope UK AIFM* is a *UK AIFM* which is authorised in accordance with ~~*AIFMD*~~ the *UK AIFM regime* and, therefore, subject to its full requirements.

...

Small AIFM

- 1.3.5 G (1) ~~AIFMD provides that an AIFM which has assets under management below certain thresholds (a “small AIFM”) may be subject to limited requirements under AIFMD. However, this is subject to the right of EEA States to impose stricter requirements. [deleted]~~
- (2) In the UK, the regulatory regime provides that an AIFM which has assets under management below certain thresholds (“a small AIFM”), with a registered office in the UK may be either:

...

Small authorised UK AIFM

- 1.3.6 G (1) ...
- (2) A *small authorised UK AIFM* may also opt in to the full requirements ~~in~~ of AIFMD the UK AIFM regime, in which case it will become a *full-scope UK AIFM*.

Small registered UK AIFM

...

- 1.3.8 G Under regulation 16 of the *AIFMD UK regulation* a *small registered UK AIFM* may apply to the FCA for a *Part 4A permission* to manage an AIF. In its application a *small registered UK AIFM* may apply to become:
- (1) ...
- (2) ~~a full-scope UK AIFM, in accordance with article 3(4) of AIFMD.~~

1.4 AIFM business restrictions

Single AIFM

- 1.4.1 R A *full-scope UK AIFM* must ensure that for each AIF it is appointed to manage, it is the only AIFM of that AIF, and is responsible for ensuring compliance with ~~AIFMD FUND~~, other rules in the Handbook which, when made, implemented AIFMD, the AIFMD level 2 regulation, the AIFMD UK regulation, and the AIFMD BTS and any other binding technical standards made in connection with the UK AIFM regime.

[**Note:** article 5(1) of AIFMD]

...

External AIFMs

- 1.4.3 R An *external AIFM* that is a *full-scope UK AIFM* must not engage in any activities other than:

- (1) ...
- (2) the management of *UCITS*, for which it is ~~subject to authorisation under the *UCITS Directive*~~ must have permission to carry on the regulated activity of managing a UK UCITS;
- (3) the management of portfolios of investments in accordance with mandates given by investors on a discretionary client-by-client basis, including portfolios of investments for ~~pension funds and institutions for occupation retirement provisions in accordance with article 19(1) of Directive 2003/41/EC~~ occupational pension schemes, within the meaning of section 1(1) of the Pension Schemes Act 1993;
- ...

...

- 1.4.6 G In the *FCA*'s view an *AIFM* is permitted under *FUND* 1.4.3R to carry out *AIFM management functions* for a collective investment undertaking ~~the management of which falls outside the scope of *AIFMD* or the *UCITS Directive*~~ which is neither an *AIF* nor a *UCITS*.

...

3 Requirements for alternative investment fund managers

3.1 Application

- 3.1.1 G The application of this chapter is summarised in the following table; the detailed application is provided in each section.

Type of firm	Applicable sections
Full-scope UK AIFM of a UK AIF.	All of chapter 3.
Full-scope UK AIFM of an EEA AIF operating from an establishment in the UK.	All of chapter 3.
Full-scope UK AIFM of an EEA AIF operating from a branch in another EEA state.	All of chapter 3 with the exception of <i>FUND</i> 3.8 (Prime brokerage firms).
Incoming EEA AIFM branch which manages a UK AIF.	<i>FUND</i> 3.8 (Prime brokerage firms).
Full-scope UK AIFM of a non-EEA AIF non-UK AIF marketed in the UK.	All of chapter 3 with the exception of <i>FUND</i> 3.12 (Marketing in the home Member State of the AIFM <u>UK</u>).
Full-scope UK AIFM of a non-EEA AIF non-UK AIF not	All of chapter 3 with the exception of <i>FUND</i> 3.3 (Annual report of an AIF),

<i>marketed</i> in the <i>UK</i> .	<i>FUND</i> 3.11 (Depositaries) and <i>FUND</i> 3.12 (Marketing in the home Member State of the AIFM <i>UK</i>).
<i>UK depositary</i> of a <i>UK AIF</i> or a <i>non-EEA AIF</i> <i>non-UK AIF</i> .	<i>FUND</i> 3.11 (Depositaries).

3.2 Investor information

...

Prior disclosure of information to investors

- 3.2.2 R An *AIFM* must, for each *UK AIF* and ~~*EEA AIF*~~ that it manages, and for each *AIF* it *markets* in the ~~*EEA*~~ *UK*, make available to *AIF* investors before they invest, in line with the *instrument constituting the fund*, the following information and any material changes to it:

...

...

- 3.2.4 R Where the *AIF* is required to publish a *prospectus* under section 85 of the *Act* or the equivalent provision implementing article 3 of the *Prospectus Directive* in the ~~*AIF's Home State*~~, only information referred to in *FUND* 3.2.2R and 3.2.3R that is additional to that contained in the *prospectus* needs to be disclosed, either separately or as additional information in the *prospectus*.

[**Note:** article 23(3) of *AIFMD*]

...

Periodic disclosure

- 3.2.5 R An *AIFM* must, for each *UK AIF* and ~~*EEA AIF*~~ it manages, and each *AIF* it *markets* in the ~~*EEA*~~ *UK*, disclose to investors periodically:

...

- 3.2.6 R An *AIFM* that manages a *UK AIF* or an ~~*EEA AIF*~~ or *markets* an *AIF* in the ~~*EEA*~~ *UK* must, for each such *AIF* that employs *leverage*, disclose on a regular basis:

...

...

3.3 Annual report of an AIF

Application

3.3.1 R This section applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*; and
- (2) ~~an EEA AIF~~; and [deleted]
- (3) a ~~non-EEA AIF~~ non-UK AIF marketed in the UK.

Provision of an annual report

3.3.2 R An *AIFM* must, for each *UK AIF* and ~~EEA AIF~~ it manages and for each *AIF* it markets in the UK:

...

- (3) make the annual report available to the *FCA* and, ~~in the case of an EEA AIF~~, to the ~~competent authority~~ of that *AIF*.

[**Note:** article 22(1) first paragraph and article 24(3)(a) of *AIFMD*]

...

3.3.4 R (1) Where the *AIF* is required to make an annual financial report public under *DTR* 4.1.3R (Publication of annual financial reports) or an equivalent provision ~~implementing article 4.1 of the Transparency Directive in the Home State of the AIF~~ in the country where the *AIF* is established, only information referred to in *FUND* 3.3.5R that is additional to the annual financial report needs to be provided to investors on request, either separately or as an additional part of the annual financial report.

- (2) Where additional information in (1) is provided as an addition to the annual financial report, that report must be made public no later than four months following the end of the financial year, under *DTR* 4.1.3R (Publication of annual financial reports) or an equivalent provision ~~implementing article 4.1 of the Transparency Directive in the Home State of the AIF~~ in the country where the *AIF* is established.

[**Note:** second paragraph, article 22(1) of *AIFMD*]

...

Accounting information in the annual report

3.3.6 R The accounting information given in the annual report must be:

- (1) prepared in accordance with the accounting standards of the *Home State of the AIF* UK (or, for a ~~non-EEA AIF~~ non-UK AIF, the accounting standards of the ~~third~~ country where it is *established*) and with the accounting rules set out in the *AIF's instrument constituting*

the fund; and

- (2) audited by one or more persons empowered by law to audit accounts under the ~~Audit Directive~~ Companies Act 2006 (or for a ~~non-EEA AIF non-UK AIF~~, under international auditing standards in force in the country where the ~~non-EEA AIF non-UK AIF~~ is established).

[**Note:** article 22(3) of AIFMD]

...

3.4 Reporting obligations to the FCA

...

Content of reporting information

- 3.4.3 R An AIFM must, for each *UK AIF* and *EEA AIF* it manages, and for each *AIF* it markets in the ~~EEA~~ UK, provide the following to the *FCA*:

...

...

Meaning of employing leverage on a substantial basis

- 3.4.6 ~~EU~~
UK

Use of leverage on a ‘substantial basis’	
1.	Leverage shall be considered to be employed on a substantial basis for the purposes of Article 24(4) of Directive 2011/61/EU [<i>FUND 3.4.5R</i>] when the exposure of an AIF as calculated according to the commitment method under Article 8 of this Regulation exceeds three times its net asset value.
[Note: article 111(1) of the AIFMD level 2 regulation]	

Additional information

- 3.4.6A R In addition to the information in *FUND 3.4.2R*, an AIFM must regularly report the following information to the *FCA*:

...

- (2) the information in *FUND 3.4.3R* for each *non-EEA AIF* it manages that is not *marketed* in the *EEA* or the UK, if:

...

- (b) that *AIF* is the *master AIF* of a *feeder AIF* which the *AIFM*

also manages and that *feeder AIF* is:

...

(ii) a *non-EEA AIF* that is marketed in the *EEA* or the UK.

...

3.4.6B G Further details in relation to the additional reporting requirements in *FUND* 3.4.6AR can be found in *ESMA*'s opinion on the "Collection of information for the effective monitoring of systemic risk under article 24(5), first subparagraph, of the AIFMD" (ESMA 2013/1340) dated 1 October 2013.

(<https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-esma-1340-opinion-on-collection-of-information-under-aifmd-for-publication.pdf>) dated 1 October 2013.

3.4.6C R In addition to the information in *FUND* 3.4.2R, an *AIFM* must regularly report to the *FCA* the information in *FUND* 3.4.3R for each *non-EEA AIF* it manages that is not marketed in the ~~*EEA*~~ UK if the *AIFM* is subject to quarterly reporting under article 110 of the *AIFMD level 2 regulation* (see ~~*SUP* 16.18.4EU~~ 16.18.4UK) for that *AIF*.

...

...

Guidelines

3.4.8 G *ESMA*'s guidelines on reporting obligations under articles 3(3)(d) and 24(1), (2) and (4) of the AIFMD (ESMA 2013/1339) dated 15 November 2013

(<https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-1339-final-report-on-esma-guidelines-on-aifmd-reporting-for-publication-revised.pdf>)

provide further details in relation to the requirements in this section.

...

3.5 Investment in securitisation positions

3.5.4 R This section applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*; and
- (2) ~~an *EEA AIF*~~; and a *non-UK AIF*.
- (3) ~~a *non-EEA AIF*~~. [deleted]

...

3.5.6 G Article 41 of the *Securitisation Regulation* ~~replaces~~ replaced the original

article 17 of AIFMD with an amended provision. *FUND* 3.5.4R and 3.5.5R transpose implemented article 17 of AIFMD, as amended.

...

3.6 Liquidity

Application

3.6.1 R This section applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*; and
- (2) ~~an EEA AIF~~; and [deleted]
- (3) a ~~non EEA AIF~~ non-UK AIF.

...

3.7 Risk management

Application

3.7.1 R This section applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*; and
- (2) ~~an EEA AIF~~; and [deleted]
- (3) a ~~non EEA AIF~~ non-UK AIF.

Functional and hierarchical separation

...

3.7.3	<u>EU</u> <u>UK</u>	Functional and hierarchical separation of the risk management function
	...	

3.7.4	<u>EU</u> <u>UK</u>	Safeguards against conflicts of interest
	1.	The safeguards against conflicts of interest referred to in the <u>UK legislation that implemented</u> Article 15(1) of Directive 2011/61/EU shall ensure, at least, that:
	...	
	...	

...

3.8 Prime brokerage firms

Application

- 3.8.1 R This section applies to:
- (1) a *full-scope UK AIFM* of:
 - (a) a *UK AIF*; and
 - (b) ~~an EEA AIF managed or marketed from an establishment in the UK;~~
~~and [deleted]~~
 - (c) a ~~non EEA AIF~~ non-UK AIF; ~~and~~
 - (2) ~~an incoming EEA AIFM branch which manages or markets a UK AIF.~~
~~[deleted]~~

...

3.9 Valuation

Application

- 3.9.1 R This section applies to a *full-scope UK AIFM* of:
- (1) a *UK AIF*; and
 - (2) ~~an EEA AIF; and [deleted]~~
 - (3) a ~~non EEA AIF~~ non-UK AIF.

...

3.10 Delegation

Application

- 3.10.1 R This section applies to a *full-scope UK AIFM* of:
- (1) a *UK AIF*; and
 - (2) ~~an EEA AIF; and [deleted]~~
 - (3) a ~~non EEA AIF~~ non-UK AIF

in relation to the delegation of those *AIFM management functions* for which it is responsible, other than supporting tasks such as administrative or technical functions.

[**Note:** recital 31 of *AIFMD*]

General delegation requirements

- 3.10.2 R An *AIFM* must ensure the following conditions are met when a delegate carries out any function on its behalf:
- ...
- (2) ...
- (d) in addition to (c), where the delegation of *AIFM investment management functions* is conferred on a ~~third-country~~ non-UK delegate, cooperation between the *FCA* and the supervisory authority of the delegate is ensured;
- ...
- ...

- ...
- 3.10.3 G For the purposes of *FUND* 3.10.2R(2)(d) cooperation is ensured between the *FCA* and the supervisory authorities of a ~~third-country~~ delegate which is not established in the UK where a cooperation arrangement is in place between the two authorities in accordance with ~~*AIFMD*~~ and article 78(3) of the *AIFMD level 2 regulation*.
- ...

3.11 Depositories

Application

- 3.11.1 R This section applies in accordance with the table in *FUND* 3.11.2R and *FUND* 3.11.3R.
- 3.11.2 R This table belongs to *FUND* 3.11.1R.

<i>Rule</i>	<i>Full-scope UK AIFM of a UK AIF or an EEA AIF (other than a non-EEA feeder AIF non-UK feeder AIF which is marketed in</i>	<i>Full-scope UK AIFM of a non-EEA AIF non-UK AIF or a non-EEA feeder AIF non-UK feeder AIF which is marketed in</i>	<i>UK depositary of a UK AIF (other than a non-EEA feeder AIF non-UK feeder AIF which is marketed in the UK)</i>	<i>UK depositary of a non-EEA AIF non-UK AIF or a non-EEA feeder AIF non-UK feeder AIF which is marketed in the UK</i>

	the UK)	the UK	managed by a <i>full-scope UK AIFM</i> or an EEA <i>AIFM</i>	
...				
3.11.18R	X			
...				

3.11.3 R A UK depositary of a ~~non-EEA AIF~~ non-UK AIF or a ~~non-EEA feeder AIF~~ non-UK feeder AIF which is marketed in the UK that does not perform all of the functions of cash monitoring, safekeeping and oversight for the AIF need only comply with the following rules that are applicable to the functions it performs:

...

Appointment of a single depositary

3.11.4 R An AIFM must, for each AIF UK AIF it manages, ensure that:

...

(2) the assets of the AIF are entrusted to the depositary for safekeeping in accordance with FUND 3.11.21R and FUND 3.11.23R.

(a) ~~for a UK AIF, FUND 3.11.21R and FUND 3.11.23R; or~~

(b) ~~for an EEA AIF, the national laws and regulations in the Home State of the AIF implementing article 21(8) of AIFMD.~~

[Note: article 21(1) and (8) of AIFMD]

...

Eligible depositaries for UK AIFs

3.11.10 R Subject to FUND 3.11.12R, an AIFM must, for each UK AIF it manages, ensure the appointment of a depositary which is a firm established in the UK and which is one of the following:

...

(2) a MiFID investment firm or an EEA MiFID investment firm which:

...

...

3.11.11 G ~~For a *depository* to be established in the UK, it must have its registered office or *branch* in the UK. A *MiFID investment firm* that has its registered office in the UK must be a *full-scope IFPRU investment firm* to meet the requirements of FUND 3.11.10R(2). A *MiFID investment firm* that has a *branch* in the UK must meet the capital requirements under the *EU CRR* for a *CRD full-scope firm* as implemented in its *Home State* to meet the requirements of FUND 3.11.10R(2).~~

(1) For a *depository* of a *fund* to be established in the UK, it must have:

(a) its registered office in the UK, where the *fund* is an *authorised fund*; or

(b) its registered office or *branch* in the UK, where the *fund* is an *unauthorised fund*.

(2) A *MiFID investment firm* that has its registered office in the UK must be a *full-scope IFPRU investment firm* to meet the requirements of FUND 3.11.10R(2). An *EEA MiFID investment firm* that has a *branch* in the UK must meet the capital requirements under the *EU CRR* for a *CRD full-scope firm* as implemented in its *Home State* to meet the requirements of FUND 3.11.10R(2).

...

3.11.15 G For certain types of closed-ended AIFs (such as private equity, venture capital and real estate funds) a wider range of entities than those specified in FUND 3.11.10R may perform the relevant *depository* functions. The FCA requires such entities to obtain authorisation as a *depository* to demonstrate that they can meet the commitments inherent in those functions, but imposes a lower level of capital requirements in recognition of the different degree of risk implied by the characteristics of the AIF. The capital requirements of such *firms* are contained in IPRU-INV 5 (particularly IPRU-INV 5.4.3R (Own funds requirement)) but if the *firm* also undertakes *MiFID business*, its capital requirements will be contained in IFPRU, the UK CRR, and the EU CRR, or in GENPRU and BIPRU depending on the scope of that *MiFID business*.

[Note: recital 34 of AIFMD]

Additional requirements for depositaries of authorised AIFs

...

3.11.17 G Where the *firm* referred to in FUND 3.11.16R is a *full-scope IFPRU investment firm* which is a *depository* for an *authorised AIF* appointed in line with FUND 3.11.10R(2), it is subject to the capital requirements of IFPRU and the UK CRR or EU CRR. However, these requirements are not in addition to FUND 3.11.16R and, therefore, a *firm* subject to this rule

may use the *own funds* required under *IFPRU* and the UK CRR or EU CRR to meet the £4 million requirement.

Eligible depositaries for ~~EEA~~ AIFs

- 3.11.18 R ~~An AIFM must, for each EEA AIF it manages, ensure the appointment of a depositary which is established in the Home State of the AIF and which is eligible to be a depositary in that Home State in accordance with article 21(3) of AIFMD. [deleted]~~
~~[Note: article 21(3) and (5)(a) of AIFMD]~~

...

Depositary functions: cash monitoring

- 3.11.20 R A depositary must ensure that the AIF's cash flows are properly monitored and that:

...

- (2) all cash of the AIF has been booked in cash accounts opened:

...

- (b) at:

...

- (iii) a bank authorised in a ~~third~~ non-EEA country; or
 (iv) another entity of the same nature, in the relevant market where cash accounts are required, provided such an entity is subject to effective prudential regulation and supervision which have the same effect as ~~EU~~ UK law and are effectively enforced and in accordance with the principles set out in article 2 (safeguarding of client financial instruments and funds) of the *MiFID Delegated Directive*; and

...

Depositary functions: safekeeping of financial instruments

...

3.11.22 <u>EU</u> <u>UK</u>	Financial instruments to be held in custody	
	1.	Financial instruments belonging to the AIF or to the AIFM acting on behalf of the AIF which are not able to be physically delivered to the depositary shall be included in the scope of the custody duties of the depositary where all of the following

		requirements are met:
	(a)	they are transferable securities including those which embed derivatives as referred to in [<u>COLL 5.2.19R(3) and (3A)</u>], money market instruments or units of collective investment undertakings;
	...	
...		
[Note: Article 88 of the <i>AIFMD level 2 regulation</i>]		

...

Delegation: general prohibition

...

- 3.11.27 G The use of services provided by securities settlement systems, as specified in the *Settlement Finality Directive Financial Markets and Insolvency (Settlement Finality) Regulations 1999*, or similar services provided by ~~third country~~ securities settlement systems in other countries, does not constitute a delegation by the *depository* of its functions.

[**Note:** article 21(11) fifth paragraph of *AIFMD*]

- 3.11.27A G (1) (a) If a *depository* performs part of its functions through a *branch* in ~~another~~ an EEA State this is not a delegation by the *depository* of its functions to a third party.
- ...
- (2) Paragraph (1) also applies where the *depository* is the *UK branch* of an *EEA firm* and it performs part of its functions:
- (a) through a *branch* in ~~another~~ an EEA State; or
- ...
- (3) (a) A *depository* that performs part of its functions through a *branch* or registered office in ~~another~~ an EEA State should ensure that those arrangements do not impede the *depository's* ability to meet the *threshold conditions*.
- (b) ...
- (ii) For example, the *FCA's* ability to supervise the *depository* might be impeded if the *depository* performed tasks other than administrative and supporting tasks from its *branch* or registered office in ~~another~~ an EEA State.

Delegation: safekeeping

3.11.28 R *A depositary* may delegate the functions in *FUND* 3.11.21R and *FUND* 3.11.23R to third parties, subject to the following conditions:

- (1) the tasks are not delegated with the intention of avoiding the requirements of ~~*AIFMD*~~ those rules or the *AIFMD level 2 regulation*;

...

Delegation: ~~third~~ countries other than the UK

3.11.29 R *A depositary* may delegate custody tasks in relation to *AIF custodial assets* to an entity in a ~~third~~ country other than the UK that does not satisfy the conditions in *FUND* 3.11.28R(4)(b), provided that:

- (1) the law of that ~~third~~ country requires those *AIF custodial assets* to be held in custody by a local entity;

...

- (3) the *depositary* delegates its functions to such a local entity only to the extent required by the law of that ~~third~~ country and only for as long as there is no local entity that satisfied the delegation conditions in *FUND* 3.11.28R(4)(b);

- (4) the investors of the relevant *AIF* are informed before their investment that such delegation is required due to legal constraints in ~~the third that~~ country and of the reasons as to why the delegation is necessary; and

...

...

AIFM of a ~~non-EEA AIF~~ non-UK AIF

3.11.33 R An *AIFM* of a ~~non-EEA AIF~~ non-UK AIF or a ~~non-EEA feeder AIF~~ non-UK feeder AIF which is marketed in the UK must:

...

...

3.12 Marketing a UK AIF in the ~~home Member State of the AIFM~~ UK

Application

3.12.1 R This section applies to:

- (1) a *full-scope UK AIFM* of a UK AIF.
 - (a) a ~~UK AIF~~; and
 - (b) an ~~EEA AIF~~; and
- (2) a *full-scope EEA AIFM* of:
 - (a) a ~~UK AIF~~; and
 - (b) an ~~EEA AIF~~. [deleted]

Marketing application

- 3.12.2 D Under regulation 54 (FCA approval for marketing) of the *AIFMD UK regulation*, a *full-scope UK AIFM* and a ~~*full-scope EEA AIFM*~~ may apply to market a ~~UK AIF~~ or ~~EEA AIF~~ it manages in the *UK* by submitting a notice to the *FCA* in the form set out in *FUND 3 Annex 1D*.
- 3.12.3 G If the ~~UK AIF~~ or ~~EEA AIF~~ is a *feeder AIF*, the *master AIF* needs to be an *AIF* that is not managed by a ~~*non-EEA AIFM non-UK AIFM*~~ or is not a ~~*non-EEA AIF non-UK AIF*~~ for it to be *marketed* in accordance with regulation 54 of the *AIFMD UK Regulation*. If the *master AIF* is managed by a ~~*non-EEA AIFM non-UK AIFM*~~ or is a ~~*non-EEA AIF non-UK AIF*~~, the *AIF* may be *marketed* in the *UK* in accordance with regulation ~~57~~ 59 (~~Marketing under article 36 of the directive~~) of the *AIFMD UK regulation* (see *FUND 10.5.3G 10.5.9G* (~~Marketing under article 36 of AIFMD~~) of *AIFs managed by other third-country AIFMs*).
- 3.12.4 G (1) A *full-scope UK AIFM* may use the form set out in *FUND 3 Annex 1D* to apply to market a ~~UK AIF~~ or ~~EEA AIF~~ (that is not a *feeder AIF*, the *master AIF* of which is managed by a ~~*non-EEA AIFM non-UK AIFM*~~ or is a ~~*non-EEA AIF non-UK AIF*~~) to *professional clients* and/or *retail clients*.
- (2) A *full-scope UK AIFM* may inform the *FCA* of its intention to market such an *AIF* in the *UK* in its application to become authorised as a *full-scope UK AIFM*, in which case the *firm* does not also have to submit the form in *FUND 3 Annex 1D* in respect of that *marketing*.
- (3) A ~~*full-scope UK AIFM*~~ may also use the form in ~~*FUND 3 Annex 1D*~~ to apply to the *FCA* to ~~market an AIF in other EEA States using the AIFMD marketing passport and to notify the FCA of material changes to domestic and cross-border marketing~~. [deleted]
- 3.12.5 G (1) A ~~*full-scope EEA AIFM*~~ that wishes to market a ~~UK AIF~~ or ~~EEA AIF~~ (that is not a *feeder AIF*, the *master AIF* of which is managed by a ~~*non-EEA AIFM*~~ or is a ~~*non-EEA AIF*~~) to *professional clients* should

do so using the *marketing* passport provided for under *AIFMD* and should, therefore, apply to its *Home State* regulator for permission to do so.

- (2) In accordance with regulation 49 (Marketing by *full-scope EEA AIFMs* of certain *AIFs*) of the *AIFMD UK Regulation*, a *full-scope EEA AIFM* may market such an *AIF* to retail clients in the *UK* if the *FCA* has received a regulator's notice in relation to the *marketing* in accordance with Schedule 3 to the *Act* (*EEA Passport rights*) or if the *AIFM* has applied to the *FCA* for permission to market the *AIF* using the form in *FUND 3 Annex 1D* and the *FCA* has approved such *marketing*.
- (3) As such, a *full-scope EEA AIFM* may use the form in *FUND 3 Annex 1D* to apply to market such an *AIF* in the *UK* to retail clients, but should not use this form to apply to market such an *AIF* to professional clients in the *UK*. [deleted]

- 3.12.6 G A *full-scope UK AIFM* or a *full-scope EEA AIFM* that intends to market to retail clients should consider the application of the *financial promotions* regime and ensure it is compliant with the relevant requirements (see *PERG 8.37.14G* (Application of the financial promotion and scheme promotion restrictions)).

...

4 European Specialist AIF Regimes

4.1 Application

- 4.1.1 G The application of this chapter is summarised in the following table; the detailed application is provided in each section.

Type of firm	Applicable sections
<i>Full-scope UK AIFM</i> of a <i>UK ELTIF</i> or an <i>LTIF</i> .	<i>FUND 4.2</i> (ELTIFs <u>LTIFs</u>)
<i>Full-scope UK AIFM</i> of an <i>EEA ELTIF</i> .	<i>FUND 4.2</i> (ELTIFs)
<i>UK depositary</i> of a <i>UK ELTIF</i> or an <i>LTIF</i> .	<i>FUND 4.2</i> (ELTIFs <u>LTIFs</u>)

4.2 ~~ELTIFs~~ LTIFs

Application

- 4.2.1 R This section applies to:
- (1) a *full-scope UK AIFM* of: an *LTIF*; and
 - (a) ~~a *UK ELTIF*~~; or
 - (b) ~~an *EEA ELTIF*~~; and
 - (2) a *UK depositary* of ~~a *UK ELTIF*~~ an *LTIF*.

The ~~ELTIF~~ LTIF Regulation

- 4.2.2 G (1) The ~~*ELTIF regulation*~~ *LTIF regulation* lays down uniform rules on the authorisation, investment policies and operating conditions of *UK AIFs* ~~or *EEA AIFs*~~, or compartments of those *AIFs*, that are *marketed* in the ~~*EEA UK*~~ as ~~European~~ long-term investment funds (~~*ELTIFs*~~) (*LTIFs*).
- (2) ~~The *ELTIF regulation* is a directly applicable *EU regulation*.~~
[deleted]

Interaction between the ~~ELTIF regulation~~ LTIF regulation and ~~AIFMD~~ the UK AIFM regime

- 4.2.3 G (1) To be eligible to manage an ~~*ELTIF*~~ *LTIF*, an *AIFM* needs to be a *full-scope UK AIFM*:
 - (a) ~~a *full-scope UK AIFM*~~; or
 - (b) ~~a *full-scope EEA AIFM*~~.

(2) This means that the *AIFM* and the *depository* of an ~~*ELTIF*~~ *LTIF* need to comply with the applicable requirements of:

 - (a) ~~*AIFMD*~~ the *UK AIFM regime*; and
 - (b) the ~~*ELTIF regulation*~~ *LTIF regulation*.

Specific depository provisions where an ~~ELTIF~~ LTIF is marketed to retail investors

- 4.2.4 G (1) Article 29 of the ~~*ELTIF regulation*~~ *LTIF regulation* contains specific provisions concerning the *depository* of an ~~*ELTIF*~~ *LTIF* that is *marketed to retail clients* which have the effect of amending the corresponding provisions of ~~which implemented *AIFMD* in the *United Kingdom*~~.

- (2) Article 29 of the ~~ELTIF regulation~~ LTIF regulation is replicated in ~~FUND 4.2.5EU~~ FUND 4.2.5UK.
- (3) These specific provisions and the corresponding references in AIFMD (as implemented before exit day), as well as the relevant provisions and ~~UK transposition in the AIFMD UK regulation and rules~~ are summarised in FUND 4.2.6G.
- (4) Where these specific provisions conflict with a rule or guidance, the relevant rule or guidance has been disapplied in FUND 4.2.7R.

4.2.5

EU
UK

Specific provisions concerning the depositary of an ELTIF <u>LTIF</u> marketed to retail investors	
1.	By way of derogation from article 21(3) of Directive 2011/61/EU, the depositary of an ELTIF marketed to retail investors shall be an entity of the type referred to in article 23(2) of Directive 2009/65/EC <u>Notwithstanding the provisions in [FUND 3.11.10R], the depositary of an LTIF marketed to retail investors must be an entity that satisfies the criteria referred to in [COLL 6.6A.8R(1) to (3)].</u>
1A.	<u>The requirements of section 243(5) and (5A) and 261D(5) of FSMA and regulation 15(8)(a) of the Open-Ended Investment Companies Regulations 2001(11), as amended from time to time, do not apply to a qualifying EEA firm until the end of the period determined in accordance with regulation 17 (period during which regulation 8 or 11 is to apply) of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018</u>
1B.	<u>In paragraph 1A ‘qualifying EEA firm’ means a body corporate which:</u> <u>(a) is the depositary of an LTIF;</u> <u>(b) is, by virtue of regulation 8 or 11 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, treated as having a Part 4A permission relating to one or more regulated activity; and</u> <u>(c) had immediately before exit day, and continues to have, a Part 4A permission to carry on the regulated activity specified in Article 51ZD of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.</u>
2.	By way of derogation from the second subparagraph of article 21(13) and article 21(14) of Directive 2011/61/EU, the depositary of an ELTIF <u>Notwithstanding regulations 30 and 32 of the AIFM Regulations, the depositary of an LTIF marketed to retail</u>

	investors shall not be able to discharge itself of liability in the event of a loss of financial instruments held in custody by a third party.
3.	The liability of the depositary referred to in article 21(12) of Directive 2011/61/EU <u>regulation 30 of the AIFM Regulations</u> shall not be excluded or limited by agreement where the ELTIF <u>LTIF</u> is marketed to retail investors.
4.	Any agreement that contravenes paragraph 3 shall be void.
5.	The assets held in custody by the depositary of an ELTIF <u>LTIF</u> shall not be reused by the depositary, or by any third party to whom the custody function has been delegated, for their own account. Reuse comprises any transaction involving assets held in custody including, but not limited to, transferring, pledging, selling and lending.
	The assets held in custody by the depositary of an ELTIF <u>LTIF</u> are only allowed to be reused provided that:
(a)	the reuse of the assets is executed for the account of the ELTIF <u>LTIF</u> ;
(b)	the depositary is carrying out the instructions of the manager of the ELTIF <u>LTIF</u> on behalf of the ELTIF <u>LTIF</u> ;
(c)	the reuse is for the benefit of the ELTIF <u>LTIF</u> and in the interests of the unit- or shareholders; and
(d)	the transaction is covered by high quality and liquid collateral received by the ELTIF <u>LTIF</u> under a title transfer arrangement.
	The market value of the collateral referred to in point (d) of the second subparagraph shall at all times amount to at least the market value of the reused assets plus a premium.
	[Note: article 29 of the ELTIF regulation <u>LTIF regulation</u>]

Summary of specific provisions concerning the depositary of an ~~ELTIF~~ LTIF marketed to retail investors

4.2.6

G

	ELTIF regulation <u>LTIF regulation</u>	AIFMD reference	UK transposition <u>Relevant provisions in AIFMD UK</u>

			<u>regulation and FCA rules</u>
(1)	Article 29(1) of the ELTIF regulation <u>LTIF regulation</u>	Article 21(3) of <i>AIFMD</i>	<i>FUND</i> 3.11.10R to <i>FUND</i> 3.11.15G and <i>FUND</i> 3.11.18R
(2)	Article 29(2) of the ELTIF regulation <u>LTIF regulation</u>	Second paragraph of article 21(13) and 21(14) of <i>AIFMD</i>	Regulations 30(4) and (5) and 32 of the <i>AIFMD UK regulation</i> (Note 1)
(3)	Article 29(3) of the ELTIF regulation <u>LTIF regulation</u>	Article 21(12) of <i>AIFMD</i>	Regulations 30(1) to (3) and 31(1) of the <i>AIFMD UK regulation</i> (Note 2)
(4)	Article 29(5) of the ELTIF regulation <u>LTIF regulation</u>	Article 21(10) third paragraph of <i>AIFMD</i>	<i>FUND</i> 3.11.24R
<p>Note 1: The <i>AIFMD UK regulation</i> was Regulations 30(4) and 32 do not apply to the <i>depository</i> of a <i>UK LTIF</i> which is marketed to retail investors under Chapter V of the <i>LTIF regulation</i>. This follows from regulations 30(7) and 32(3) of the <i>AIFMD UK regulation</i> which were amended by The European Long-term Investment Funds Regulations 2015 (SI 2015/1882) so that these regulations do not apply to a <i>depository</i> of an <i>EEA ELTIF</i> or a <i>UK ELTIF</i> that is marketed to retail clients under Chapter V of the <i>ELTIF Regulation</i> (see regulations 30(7) and 32(3) of the <i>AIFMD UK regulation</i>) and The Alternative Investment Fund Managers (Amendment) (EU Exit) Regulations 2019 (SI 2019/328).</p>			
<p>Note 2: No modifications are needed to these provisions as the liability of the <i>depository</i> referred to in article 21(12) of <i>AIFMD</i> is unaffected by the <i>ELTIF regulation</i> <u><i>LTIF regulation</i></u>.</p>			

Disapplication of *FUND* *depository* provisions for an ~~ELTIF~~ LTIF marketed to retail investors

- 4.2.7 R The following provisions do not apply when an ~~ELTIF~~ LTIF is marketed to a retail client:
- (1) *FUND* 3.11.10R to *FUND* 3.11.15G (Eligible *depositories* for UK AIFs); and

- (2) ~~FUND 3.11.18R (Eligible depositaries for EEA AIFs); and [deleted]~~
- (3) FUND 3.11.24R (Reuse of assets).

Documentation and information required to market an ~~ELTIF~~ LTIF

- 4.2.8 G (1) To market an ~~ELTIF~~ LTIF an AIFM is required to:
- (a) notify ~~its competent authority~~ the FCA in accordance with ~~article 31 of AIFMD~~ regulation 54 of the AIFMD UK regulation, if it wishes to ~~market the ELTIF~~ market the LTIF in the ~~Home State of the AIFM UK~~ (see article 31(1) of the ~~ELTIF regulation~~ LTIF regulation); and
 - (b) ~~notify its competent authority in accordance with article 32 of AIFMD, if it wishes to market the ELTIF in a Host State of the AIFM (see article 31(2) of the ELTIF regulation); and [deleted]~~
 - (c) provide the following additional documentation and information to ~~its competent authority~~ the FCA (see article 31(4) of the ~~ELTIF regulation~~ LTIF regulation):
 - (i) the prospectus of the ~~ELTIF~~ LTIF;
 - (ii) the *key information document* of the ~~ELTIF~~ LTIF in the event that it is *marketed to retail clients*; and
 - (iii) information on the facilities referred to in article 26 of the ~~ELTIF regulation~~ LTIF regulation.
- (2) To ~~market~~ an ~~ELTIF~~ LTIF, a *full-scope UK AIFM* should submit a notice to the FCA using the forms in:
- (a) FUND 3 Annex 1D (Notification of intention to market an AIF in the United Kingdom) to ~~market an ELTIF~~ market an LTIF in the *United Kingdom*; and
 - (b) ~~SUP 13 Annex 8BR (Passporting: AIFMD) to market an ELTIF in an EEA State other than the United Kingdom; and [deleted]~~
 - (c) FUND 4 Annex 1R (Additional documentation and information to market an ~~ELTIF~~ LTIF) (as required by FUND 4.2.9R).

- 4.2.9 R The *AIFM* of an ~~ELTIF~~ LTIF must submit a notice to the *FCA* using the form in *FUND* 4 Annex 1R (Additional documentation and information to market an ~~ELTIF~~ LTIF) to *market* the ~~ELTIF~~ LTIF.

Interaction between ~~ELTIFs~~ LTIFs and authorised funds

- 4.2.10 G (1) The requirements in relation to an ~~ELTIF~~ LTIF are set out in the ~~ELTIF regulation~~ LTIF regulation rather than in *FCA rules*.
- (2) (a) As a result, the *Glossary* term of an *authorised fund* has only limited application to an ~~ELTIF~~ LTIF.
- (b) This is to avoid all the requirements for an *authorised AIF* applying to an *AIFM* or *depository* of an ~~ELTIF~~ LTIF.
- (3) (a) The *Glossary* term of an *authorised fund* only applies to a ~~UK-ELTIF~~ an LTIF (other than a *body corporate* that is not a *collective investment scheme*) in *FEES* 6 and *COMP*.
- (b) This is to allow the *rules* and *guidance* in *FEES* 6 and *COMP* to apply to a ~~UK-ELTIF~~ an LTIF (other than a *body corporate* that is not a *collective investment scheme*) in the same way as other types of *fund* that are authorised by the *FCA*.
- 4.2.11 G (1) However, a *full-scope UK AIFM* of a ~~UK-ELTIF~~ an LTIF needs to obtain the *permission of managing an AIF* that is an *authorised AIF*.
- (2) Similarly, the *depository* of a ~~UK-ELTIF~~ an LTIF needs to obtain the *permission of acting as trustee or a depository of an AIF* that is an *authorised AIF*.
- (3) (a) Where the requirements for an *AIFM* or a *depository* of an ~~ELTIF~~ LTIF are concerned, an ~~ELTIF~~ LTIF bears more of a resemblance to an *authorised AIF* than an *unauthorised AIF*.
- (b) As a result, *firms* that do not have the *permission to manage an AIF* that is an *authorised AIF* or *act as a trustee or depository of an AIF* that is an *authorised AIF* will need to vary their *permission* to be able to act as the *AIFM* or *depository* of an ~~ELTIF~~ LTIF.

4 Annex 1R Additional documentation and information to market an ~~ELTIF~~ LTIF

...

10 Operating on a cross-border basis

10.1 Application and purpose

Application

- 10.1.1 G (1) This chapter applies to the following types of *firm* in relation to the activities in (2):
- (a) ...;
 - (b) ~~a full scope EEA AIFM~~; [deleted]
 - (c) ~~a small non-EEA AIFM~~ small non-UK AIFM; and
 - (d) ~~an above threshold non-EEA AIFM~~ above threshold non-UK AIFM.
- (2) The activities to which this chapter relates are the management and marketing on a cross-border basis, into or from the *UK* of:
- (a) a *UK AIF*; and
 - (b) ~~an EEA AIF~~; and a non-UK AIF.
 - (c) ~~a non-EEA AIF~~. [deleted]

...

Introduction

- 10.1.3 G ~~An AIFM operates on a cross border basis when it manages or markets an AIF in an EEA State other than the state in which it has its registered office (which may include, in certain cases, a state which is a non-EEA State).~~
[deleted]
- 10.1.4 G (1) ~~AIFMD allows certain types of AIFM to operate on a cross border basis using a passport. There are two types of passport that are provided for in AIFMD:~~ [deleted]
- (a) ~~a management passport, which allows an AIFM to establish a branch in, or provide cross border services into, another EEA State to manage an AIF; and~~
 - (b) ~~a marketing passport, which allows an AIFM to provide cross border services into another EEA State to market an AIF to investors that are professional clients.~~
- (2) ~~The following types of AIFM are allowed to operate on a cross border basis using the management and marketing passport:~~

(a) a *full-scope UK AIFM* of:

(i) a *UK AIF*; and

(ii) an *EEA AIF*; and

(b) a *full-scope EEA AIFM* of:

(i) a *UK AIF*; and

(ii) an *EEA AIF*.

10.1.5 G (1) ~~*AIFMD* also contains~~ There are specific provisions for third country *AIFs* and *AIFMs* (ie, in relation to ~~*non-EEA AIFs non-UK AIFs*~~ and ~~*non-EEA AIFMs non-UK AIFMs*~~) and the *marketing* of a *UK AIF* or an ~~*EEA AIF*~~ a *non-UK AIF* that is a *feeder AIF*, the *master AIF* of which is managed by a ~~*non-EEA AIFM non-UK AIFM*~~ or is a ~~*non-EEA AIF non-UK AIF*~~.

(2) ~~In line with these provisions, the following types of *AIFM* are~~ A *UK AIFM* is allowed to manage a ~~*non-EEA AIF non-UK AIF*~~ from an ~~*EEA State*~~ the *UK*.:

(a) a ~~*full-scope UK AIFM*~~; and

(b) a ~~*full-scope EEA AIFM*~~.

(3) In addition, ~~*EEA States* may allow the *UK*~~ allows the *marketing* by the following types of *AIFM* in ~~their territory only~~ the *UK*:

(a) a *full-scope UK AIFM* of:

(i) a *UK AIF* ~~or an *EEA AIF*~~ that is a *feeder AIF*, the *master AIF* of which is managed by a ~~*non-EEA AIFM non-UK AIFM*~~ or is a ~~*non-EEA AIF non-UK AIF*~~ and;

(ii) a ~~*non-EEA AIF non-UK AIF*~~;

(b) a ~~*full-scope EEA AIFM*~~ of:

(i) a *UK AIF* ~~or an *EEA AIF*~~ that is a *feeder AIF*, the *master AIF* of which is managed by a ~~*non-EEA AIFM*~~ or is a ~~*non-EEA AIF*~~; and

(ii) a ~~*non-EEA AIF*~~; and [deleted]

(c) a ~~*non-EEA AIFM non-UK AIFM*~~ of:

- (i) a UK AIF; and
- (ii) ~~an EEA AIF~~; and a non-UK AIF.
- (iii) ~~a non-EEA AIF~~. [deleted]

FUND 10.2 (AIFM management passport) and 10.3 (AIFM marketing passport) are deleted in their entirety. The deleted text of each section is not shown but the sections are marked [deleted] as shown below.

10.2 AIFM management passport [deleted]

10.3 AIFM marketing passport [deleted]

Amend the following as shown.

10.4 AIFM third country management

Application

- 10.4.1 G This section applies to a *full-scope UK AIFM* of a ~~non-EEA AIF~~ non-UK AIF that is not *marketed* in the ~~EEA UK~~ to EEA UK investors.

Applicable requirements

- 10.4.2 G A *full-scope UK AIFM* may manage a ~~non-EEA AIF~~ non-UK AIF subject to the satisfaction of certain conditions. If the *AIF* is not *marketed*, these conditions are that:
- (1) the *AIFM* complies with the full requirements of ~~AIFMD FUND~~, other rules in the Handbook which, when made, implemented AIFMD, the AIFMD level 2 regulation, the AIFMD UK regulation in respect of that *AIF*, except ~~article 21 (Depositaries) and article 22 FUND 3.3 (Annual reporting) and FUND 3.11 (Depositaries)~~, the AIFMD BTS and any other binding technical standards made in connection with the UK AIFM regime; and
 - (2) (in accordance with regulation 33 of the *AIFMD UK regulation*) appropriate cooperation arrangements are in place between the ~~competent authorities of the Home State of the AIFM~~ FCA and the supervisory authorities of the ~~third~~ country where the ~~non-EEA AIF~~ non-UK AIF is *established* in order to ensure an efficient exchange of information that allows the ~~competent authority of the Home State~~

~~of the AIFM FCA~~ to carry out its duties in accordance with ~~AIFMD FUND~~, other ~~rules~~ in the *Handbook* which, when made, ~~implemented AIFMD~~, the ~~AIFMD level 2 regulation~~ and the ~~UK AIFMD regulation~~.

- 10.4.3 G As a result, a *full-scope UK AIFM* of a ~~non-EEA AIF~~ non-UK AIF that is not *marketed* is required to comply with:
- (1) all of *FUND* 3 with the exception of *FUND* 3.3 (Annual report of an *AIF*), *FUND* 3.11 (Depositories) and *FUND* 3.12 (Marketing in the ~~home Member State of the AIFM UK~~); and
 - (2) ...
- 10.4.4 G If a *full-scope UK AIFM* wishes to market in the *UK* a ~~non-EEA AIF~~ non-UK AIF that it manages, the *AIFM* must comply with the relevant requirements, as explained in *FUND* 10.5.3G to *FUND* 10.5.5G (Marketing ~~under article 36 of AIFMD~~ of third country AIFs managed by full-scope UK AIFMs).

10.5 National private placement

Application

- 10.5.1 G This section applies to the following types of *AIFM* that intend to market an *AIF* in the *UK*:
- (1) a *full-scope UK AIFM* of:
 - (a) a *feeder AIF* that is a *UK AIF* ~~or an EEA AIF~~, the *master AIF* of which is managed by a ~~non-EEA AIFM~~ non-UK AIFM or is a ~~non-EEA AIF~~ non-UK AIF; and
 - (b) a ~~non-EEA AIF~~ non-UK AIF;
 - (2) ~~a full-scope EEA AIFM~~ of: [deleted]
 - (a) a *feeder AIF* that is a *UK AIF* ~~or an EEA AIF~~, the *master AIF* of which is managed by a ~~non-EEA AIFM~~ or is a ~~non-EEA AIF~~; and
 - (b) a ~~non-EEA AIF~~;
 - (3) ~~a small non-EEA AIFM~~ of: [deleted]
 - (a) a *UK AIF*;

- (b) ~~an EEA AIF; and~~
- (c) ~~a non EEA AIF; and~~
- (4) an ~~above-threshold non-EEA AIFM~~ above-threshold non-UK AIFM of:
 - (a) a UK AIF; and
 - (b) ~~an EEA AIF; and~~ [deleted]
 - (c) a ~~non-EEA AIF~~ non-UK AIF.

Introduction

- 10.5.2 G ~~AIFMD permits EEA States to allow the marketing in their territory~~ Marketing in the UK only of the types of AIF set out in FUND 10.5.1G; ~~is permitted subject to certain conditions. This has been implemented in the UK by (see Part 6 (Marketing) of the AIFMD UK regulation).~~ In accordance with these provisions, an AIFM of the type set out in FUND 10.5.1G may *market* an AIF in the UK providing it has notified the FCA of its intention to *market*, it meets the relevant conditions in the *AIFMD UK regulation* and the FCA has not suspended or revoked the AIFM's entitlement to *market* the AIF. The AIFM is entitled to *market* the AIF as soon as a notification containing all of the required information has been sent to the FCA.

Marketing under article 36 of the AIFMD of third country AIFs managed by full-scope UK AIFMs

- 10.5.3 G In accordance with regulation 57 ~~(Marketing under Article 36 of the directive)~~ of the *AIFMD UK regulation*, a *full-scope UK AIFM* ~~and a full-scope EEA AIFM~~ may *market* the following types of AIF in the UK by submitting a notification to the FCA in the form in FUND 10 Annex 1D:
- (1) a *feeder AIF* that is a *UK AIF* ~~or an EEA AIF~~, the *master AIF* of which is managed by a ~~non-EEA AIFM~~ non-UK AIFM or is a ~~non-EEA AIF~~ non-UK AIF; and
 - (2) a ~~non-EEA AIF~~ non-UK AIF.
- 10.5.4 G To allow the AIFM to comply with regulation 57(4), the notification includes a statement from the AIFM confirming that the following conditions are met:
- (1) subject to (2), the AIFM complies with the requirements of ~~AIFMD FUND~~, other *rules in the Handbook* which, when made, implemented AIFMD, the AIFMD level 2 regulation, the AIFMD UK regulation, the AIFMD BTS and any other binding technical

standards made in connection with the UK AIFM regime in respect of that AIF;

- (2) the AIFM is not required to comply with the requirements of ~~article 24~~ FUND 3.11 (Depositaries) ~~of AIFMD~~ provided the AIFM:
- (a) ensures that one or more entities, other than the AIFM, are appointed to carry out the duties in ~~article 21(7) to (9) of AIFMD~~ FUND 3.11.20R to 3.11.23R and 3.11.25R; and
- ...
- (3) appropriate cooperation arrangements for the purpose of systemic risk oversight and in line with international standards are in place between the FCA and the supervisory authorities of the relevant third country to ensure an efficient exchange of information that enables the FCA to carry out its duties in accordance with ~~AIFMD~~ FUND, other rules in the Handbook which, when made, implemented AIFMD, the AIFMD level 2 regulation and the AIFMD UK regulation, the AIFMD BTS and any other binding technical standards made in connection with the UK AIFM regime; and
- (4) the ~~third~~ country where the ~~non-EEA AIF~~ non-UK AIF is established is not listed as a Non-Cooperative Country and Territory by the Financial Action Task Force (FATF).

- 10.5.5 G (1) As a result of *marketing* an AIF in the UK, a *full-scope UK AIFM* is required to comply with:
- (a) all of *FUND 3*, except certain sections of *FUND 3.11* (Depositaries) (as set out in *FUND 3.11.33R* (AIFM of a ~~non-EEA AIF~~ non-UK AIF)) and (Marketing in the ~~home Member State of the AIFM~~ UK); and
- (b) ...
- (2) A *full-scope UK AIFM* managing a ~~non-EEA AIF~~ non-UK AIF that is not *marketed* should note that the *rules* it needs to comply with will change in relation to that AIF as a result of the AIF being *marketed* (see *FUND 10.4.3G* for details of the rules that apply to a *full-scope UK AIFM* managing a ~~non-EEA AIF~~ non-UK AIF that is not *marketed*). In particular, an AIFM will be subject to the annual report requirements in *FUND 3.3* (Annual report of an AIF) and some of the depositary provisions in *FUND 3.11* (Depositaries) (as set out in *FUND 3.11.33R* (AIFM of a ~~non-EEA AIF~~ non-UK AIF)).

Marketing of AIFs managed by small third-country AIFMs

- 10.5.6 G In accordance with regulation 58 (Marketing of AIFs managed by small third country AIFMs) of the *AIFMD UK regulation*, a *small non-EEA*

AIFM ~~small non-UK AIFM~~ may market an AIF in the UK managed by it by submitting a notification to the FCA in the form set out in FUND 10 Annex 1D.

10.5.7 G To allow the *AIFM* to comply with the requirements of regulation 58(2), the notification includes a statement from the *AIFM* confirming that the following conditions are met:

- (1) ...
- (2) the *AIFM* is a ~~small non-EEA AIFM~~ small non-UK AIFM.

10.5.8 G As a result of marketing an AIF in the UK, a ~~small non-EEA AIFM~~ small non-UK AIFM is required to provide the FCA with information on:

...

Marketing under article 42 of the directive of AIFs managed by other third-country AIFMs

10.5.9 G In accordance with regulation 59 (~~Marketing under article 42 of the directive~~) of the *AIFMD UK regulation*, an ~~above-threshold non-EEA AIFM~~ above-threshold non-UK AIFM may market a UK AIF, ~~an EEA AIF~~ or a ~~non-EEA AIF~~ non-UK AIF in the UK managed by it by submitting a notification to the FCA in the form in FUND 10 Annex 1D.

10.5.10 G To allow the *AIFM* to comply with the requirements of regulation 59(2), the notification includes a statement from the *AIFM* confirming that the following conditions are met:

...

- (2) the *AIFM* complies with the requirements of ~~articles 22 to 24 AIFMD~~ FUND 3.2 (Investor information), 3.3 (Annual report of an AIF), and 3.4 (Reporting obligations to the FCA) in so far as such provisions are relevant to the *AIFM* and the AIF to be marketed;

...

- (4) appropriate cooperation arrangements for the purpose of systemic risk oversight and in line with international standards are in place between:
 - (a) the FCA and, if applicable, the *competent authorities* of the other ~~EEA State~~ country where the AIF is established; and
 - (b) the supervisory authorities of the country where the ~~non-EEA AIFM~~ non-UK AIFM is established and, if applicable, of the country where the ~~non-EEA AIF~~ non-UK AIF is

established,

to ensure an efficient exchange of information that enables the *FCA* to carry out its duties in accordance with *AIFMD*; and

- (5) the ~~third~~ country where the ~~non-EEA AIF~~ *non-UK AIF* is established is not listed as a Non-Cooperative Country and Territory by the Financial Action Task Force (FATF).

10.5.11 G As a result of *marketing* an *AIF* in the *UK*, an ~~above-threshold non-EEA AIFM~~ *above-threshold non-UK AIFM* is required to comply with:

...

10.5.11 G (1) (a) A provision of *FUND* 3.2 (Investor Information), *FUND* 3.3
A (Annual report of the *AIF*) or *FUND* 3.4 (Reporting obligations to the *FCA*) will not be relevant to an ~~above-threshold non-EEA AIFM~~ *above-threshold non-UK AIFM* and the *AIF* it markets, if it relates to another provision to which the *AIFM* is not subject.

...

...

...

App 1 Written Notice decision procedures under the AIFMD UK regulation

App 1.1 Section title

...

App 1.1.4G

Regulation	Description	Decision Maker
...		
54(6)	Where the <i>FCA</i> proposes to refuse an application to market an <i>AIF</i> by a <i>full-scope UK AIFM</i> or a full-scope EEA AIFM under regulation 54 (<i>FCA</i> approval for marketing) of the <i>AIFMD UK regulation</i> .	<i>Executive procedures</i>

54(7)(a)	Where the <i>FCA</i> decides to refuse an application to <i>market</i> an <i>AIF</i> by a <i>full-scope UK AIFM</i> or a full-scope EEA AIFM under regulation 54 (FCA approval for marketing) of the <i>AIFMD UK regulation</i> .	<i>Executive procedures</i>
...		

...

Annex E

Amendments to the Professional Firms sourcebook (PROF)

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

1 Professional firms

1.1 Application and Purpose

Application

...

- 1.1.1A R ~~This sourcebook does not apply to an *incoming ECA provider* acting as such. [deleted]~~

...

Purpose

...

- 1.1.4 G This sourcebook outlines:

...

- (6) the arrangements made by the *FCA* ~~for complying with its obligations under the *IDD*~~ in relation to:
- (a) maintaining a record of *unauthorised persons*, including *exempt professional firms*, that carry on, or are proposing to carry on, *insurance distribution activity*; ~~and~~
 - (b) ~~*exempt professional firms* that wish to passport under the *IDD*.~~

...

- 1.1.6 G The *rules* and *guidance* in this sourcebook are intended to:

...

- (4) explain the background to and the arrangements made by the *FCA* for:
- (a) the registration of *unauthorised persons*, including *exempt professional firms*, that carry on, or are proposing to carry on, *insurance distribution activity*; ~~and~~
 - (b) ~~*authorised professional firms* and *exempt professional firms* that wish to exercise their *EEA right* under the *IDD* to establish a~~

~~branch or provide cross border services in another EEA State.~~

...

3 The FCA's duties and powers

3.1 The FCA's duty to keep itself informed

...

3.1.2 G The *FCA* keeps itself informed in a number of ways. A *designated professional body* has a duty under section 325(4) of the *Act* to cooperate with the *FCA*. Article 94 of the *Regulated Activities Order* requires each *designated professional body* to provide the *FCA* with the information it needs to maintain a public record of *persons* that are registered with the *FCA* to conduct *insurance distribution activity*. The *FCA* has made arrangements with each of the *designated professional bodies* about the information they provide to it, to include information about:

...

- (6) the names and addresses of each of their *exempt professional firms* that carry on, or are proposing to carry on, *insurance distribution activity*, together with the details of the individuals within the management of the *exempt professional firms* who are responsible for the *insurance distribution activity* and, ~~where relevant, the passporting information required by the *FCA* for the purposes of paragraph 25 of Schedule 3 to the *Act* (EEA Passport Rights).~~

...

5 Non-mainstream regulated activities

...

5.3 Reference to other sourcebooks and manuals

Conduct of Business sourcebook

5.3.2 G *COBS* 18.11 provides that *COBS* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*, except for:

...

- (2) (where these are *insurance distribution activities*) the parts of *COBS* set out in *COBS* 18.11.2R(3)(a) to (i) which ~~implement~~ implemented the *IDD* apply unless:

- (a) the *designated professional body* of the *firm* has made rules

which ~~implement~~ implemented some or all of articles 1(4), 17, 18, 19, 20, 23, 24(1) to (4) and (6), 29, and 30 of the *IDD*;

...

...

...

Senior Management Arrangements, Systems and Controls

- 5.3.4 G The following provisions do not apply to *authorised professional firms* when carrying on *non-mainstream regulated activities*:

...

- (4) *SYSC 19F.2* (*IDD* remuneration incentives) where the *designated professional body* of the *firm* has made *rules*, approved by the *FCA*, that ~~implement~~ implemented article 17(3) of the *IDD* and that apply to the *firm*; and

...

...

Client Assets

- 5.3.9 G *CASS 1.2.4R* provides that with the exception of *CASS 1* and the *insurance client money chapter*, *CASS* does not apply to *authorised professional firms* when carrying on *non-mainstream regulated activities*. *CASS 1.2.5R* further provides that if the *non-mainstream regulated activities* are *insurance distribution activity*, *CASS 5* (the *insurance client money chapter*) does not apply to an *authorised professional firm*, if the *firm's designated professional body* has rules applicable to the *firm* which ~~implement~~ implemented the *IDD* and which are in the form approved by the *FCA* under section 332(5) of the *Act*.

Insurance: Conduct of Business sourcebook

- 5.3.10 G (1) *ICOBS* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* (see *ICOBS 1 Annex 1, Part 1, paragraph 3.1R*, except for:

...

- (d) provisions in *ICOBS* which ~~implement~~ implemented articles 1(4), 17, 18, 19, 20, 23, and 24 of the *IDD* (see *ICOBS 2.2.2R* (communication to customers and financial promotions), *ICOBS 2.2.2AR* (marketing communications), *ICOBS 2.5.-1R* (the customer's best interests rule), *ICOBS 2.6* (Distribution of connected contracts through exempt persons), *ICOBS 4.1* (Information about the firm, its services and remuneration), *ICOBS 4.1A* (Means of communicating to customers),

*ICOB*S 4.3 (remuneration disclosure), *ICOB*S 5.2 (Demands and needs), *ICOB*S 5.3.3R (Advice on the basis of a fair analysis), *ICOB*S 5.3.4R (Personalised explanation), *ICOB*S 6A.1.4R (Ensuring the customer can make an informed decision) and *ICOB*S 6A.3 (Cross-selling)), except to the extent that the *firm* is subject to equivalent *rules* of its *designated professional body* which have been approved by the *FCA*.

...

7 Insurance Distribution Activity

7.1 Register of persons carrying on insurance distribution activity

...

Financial Services Register

...

7.1.7 G The information to be included on the record in relation to *exempt professional firms* will, as required by the UK provisions which implemented the *IDD*, include details of:

- (1) the name and address of each *exempt professional firm* that carries on, or is proposing to carry on, *insurance distribution activity*; and
- (2) where the *exempt professional firm* is not an individual, the names of the individuals within the management of the *exempt professional firm* who are responsible for the *insurance distribution activity*; ~~and~~
- (3) ~~each *EEA State* in which the *exempt professional firm* under an *EEA right* derived from the *IDD*:~~
 - (a) ~~has established a branch; or~~
 - (b) ~~is providing cross border services.~~ [deleted]

...

7.2 Passporting under the *IDD* [deleted]

7.2.1 G ~~All *persons* that are on the register maintained by the *FCA* in accordance with article 3 of the *IDD*, and so permitted to conduct *insurance distribution activity*, are entitled to exercise the *EEA right* conferred upon them by articles 4 (freedom to provide services) and 6 (freedom of establishment) of the *IDD* to establish a *branch* or provide services relating to *insurance distribution activity* in another *EEA State*. Both *authorised professional firms* and *exempt professional firms* that are so registered by the *FCA* get the benefit of these passporting rights.~~

7.2.2 G ~~Any *authorised professional firm* or *exempt professional firm* that is~~

contemplating the exercise of rights under articles 4 (freedom to provide services) or 6 (freedom of establishment) of the *IDD* to establish a *branch* or provide services relating to *insurance distribution activity* in another *EEA State* is referred to *SUP 13 (Exercise of passport rights by UK firms)* for further details as to the applicable process. Note that both *authorised professional firms* and *exempt professional firms* are *UK firms* for the purposes of the *Handbook*, including *SUP 13*.

- 7.2.3 G A *UK firm* proposing to establish a *branch* in another *EEA State* for the first time under an *EEA right* derived from the *IDD* must first satisfy the conditions in paragraphs 19(2),(4) and (5) of Part III of Schedule 3 to the *Act* (EEA Passport Rights). These include the requirement that the firm must at the outset give the *FCA* a notice in the required form of its intention to establish the *branch*. *SUP 13.3.2G* to *SUP 13.3.2CG* and *SUP 13.3.5G* detail the procedure to be followed once such a *notice of intention* has been received by the *FCA*. *SUP 13.5.1R* (Specified contents: notice of intention to establish a branch) and *SUP 13.6.9AG* (Firms passporting under the *IDD*) will also be relevant.
- 7.2.4 G A *UK firm* proposing to provide *cross border services* into another *EEA State* for the first time under an *EEA right* derived from the *IDD* must first satisfy the conditions in paragraph 20(1) of Part III of Schedule 3 to the *Act* (EEA Passport Rights). The *UK firm* must at the outset give the *FCA* a notice in the required form of its intention to provide the *cross border services* into another *EEA State*. In this instance, the relevant procedure to be followed is outlined in *SUP 13.4.2G*, *SUP 13.4.4G* and *SUP 13.4.5AG*. *SUP 13.5.2R* (Specified contents: notice of intention to provide cross border services) and *SUP 13.7.11AG* will also be relevant.

Annex F

Amendments to the Regulated Covered Bonds sourcebook (RCB)

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

1 Introduction

1.1 Introduction to sourcebook

...

Purpose

- 1.1.2 G The general purpose of this sourcebook is to set out the guidance, directions and rules made by the *FCA* under the *RCB Regulations*. Those regulations enable bonds to be issued which ~~comply with Article 52(4) of the *UCITS Directive*~~ qualify under *COLL 5.2.11R(5A)* and *5.6.7R(3A)* for a concession from the general spread of risk requirements in respect of *transferable securities*.

...

- 1.1.7 G An *insurer* (which is not a *UK Solvency II firm*, ~~or a non-directive friendly society, incoming EEA firm or an incoming Treaty firm~~) may benefit from increased counterparty limits under *INSPRU 2.1.22R(3)(b)*. An *insurer* which is a *UK Solvency II firm* is subject to the *rules* in the *PRA Rulebook* which transposed the *Solvency II Directive* and also to the *Solvency II Regulation* (EU) 2015/35 of 10 October 2014.

...

- 1.1.9 G (1) *Issuers* which are subject to an obligation to publish a prospectus under the *Prospectus Directive Act* and the *Prospectus Rules* are required by Article 3 of the *PD Regulation* to disclose risk factors. These requirements are set out in *PR 2.3.1EUUK* and *PR App 3.1.1EUUK*.

...

Annex G

Amendments to the Recognised Investment Exchanges sourcebook (REC)

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

1 Introduction

1.1 Application

- 1.1.1 G (1) The *rules and guidance* in this sourcebook apply to *recognised bodies* and to applicants for recognition as *RIEs* under *Part XVIII* of the *Act* (Recognised Investment Exchanges and Clearing Houses) ~~and (as *RAPs*) under the *RAP regulations*.~~
- ...
- 1.1.1A G ~~The *guidance* in *REC 6A* applies to *EEA market operators* exercising passporting rights in the *United Kingdom*. [deleted]~~
- 1.1.2 G ...
- (2) *UK RIEs* must satisfy *recognition requirements* prescribed by the Treasury (in certain cases with the approval of the Secretary of State) in the *Recognition Requirements Regulations*. *UK RIEs* must also satisfy the *MIFID/MiFIR requirements*. ~~*RAPs* must satisfy the *recognition requirements* prescribed by the Treasury in the *RAP regulations*, under the *auction regulation* and must also be *UK RIEs* and so are subject to requirements under the *MIFID/MiFIR requirements*. *ROIEs* must satisfy *recognition requirements* laid down in *section 292* of the *Act* (Overseas investment exchanges and overseas clearing houses).~~
- ...
- 1.1.3 G (1) The *recognition requirements* for *UK recognised bodies* are set out, with *guidance*, in *REC 2*. ~~The *RAP recognition requirements* (other than requirements under the *auction regulation* which are not reproduced in *REC*) are set out, with *guidance*, in *REC 2A*.~~
- ...
- (5A) ~~*Guidance* for *EEA market operators* exercising their passporting rights in the *United Kingdom* is set out in *REC 6A*. [deleted]~~
- ...
- ### 1.2 Purpose, status and quotations, notes or references

Purpose

- 1.2.1 G The purpose of the *guidance* (~~other than in REC 6A~~) in this sourcebook is to give information on the *recognised body requirements*. ~~The purpose of the guidance in REC 6A is to give EEA market operators information about their passporting rights in the United Kingdom.~~ Explanations of the purposes of the *rules* in this sourcebook are given in the chapters concerned.

Status

- 1.2.2 G (1) ... Other informative text regarding provisions of *EU* directives or ~~directly applicable EU~~ *onshored regulations* which is meant to be for the convenience of readers but is not part of the legislative material is preceded by the word “Note”. ...

...

Quotations

- 1.2.3 G (1) This sourcebook contains quotations from the *Act*, the *Recognition Requirements Regulations*, ~~the RAP regulations~~, the *Companies Act 1989* and, where necessary, words have been added to, or substituted for, the text of these provisions to facilitate understanding.

...

2 Recognition requirements

2.1 Introduction

- 2.1.1 G (1) This chapter contains the *recognition requirements* for *UK RIEs* (~~other than RAPs~~) and sets out *guidance* on those requirements. ~~Except for REC 2.5A, references to recognised body or UK recognised bodies in the rest of this chapter shall be read as referring to UK RIEs.~~

...

- 2.1.1A G ~~Guidance on the RAP recognition requirements which apply to RAPs is set out in REC 2A (Recognised Auction Platforms).~~ *Guidance* on the *recognition requirements* for *ROIEs* is set out in *REC 6* (Overseas Investment Exchanges).

...

2.4A Management body

...

2.4A.2 UK Schedule to the Recognition Requirements Regulations, paragraph 2B

..

(2) For the purposes of sub-paragraph (1)(a) -

...

(b executive or non-executive directorships -
)

...

(ii) held within the same undertaking where the [UK RIE] holds a qualifying holding ~~within the meaning of Article 4.1.31 of the markets in financial instruments directive [MiFID],~~

...

...

...

(7) In sub-paragraph (2)(b)(ii)—

“qualifying holding” means a direct or indirect holding in an investment firm which represents 10% or more of the capital or of the voting rights, as set out in Articles 9 and 10 of Directive 2004/109/EC, taking into account the conditions regarding aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the investment firm in which that holding subsists;

“Directive 2004/109/EC” means Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

...

2.5 Systems and controls, algorithmic trading and conflicts

2.5.1 UK Schedule to the Recognition Requirements Regulations, paragraphs 3 – 3H

...

Paragraph 3B – Halting trading

...

- (4) If a trading venue operated by the [UK RIE] is material in terms of liquidity of the trading of a financial instrument and it halts trading ~~in an EEA State~~ in the United Kingdom in that instrument it must have systems and procedures in place to ensure that it notifies the FCA.

...

Paragraph 3C – Direct electronic access

Where the [UK RIE] permits direct electronic access to a trading venue it operates, it must -

- (1) (a) ensure that a member of, or participant in that trading venue is only permitted to provide direct electronic access to the venue if the member or participant -
- (i) ~~is an investment firm, as defined by Article 4.1.1 of the markets in financial instruments directive (definitions), authorised in accordance with the directive;~~
an investment firm which has permission under Part 4A of the Act to carry on a regulated activity which is any of the investment services or activities;
 - (ii) ~~is a credit institution authorised in accordance with the capital requirements directive;~~
a qualifying credit institution that has Part 4A permission to carry on the regulated activity of accepting deposits;
 - (iii) ~~comes within Article 2.1(a), (e), (i), or (j) of the markets in financial instruments directive (exemptions) and has a Part 4A permission relating to investment services and activities;~~
is a person who falls within regulation 30(1A) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 and has permission under Part 4A of the Act to carry on a regulated activity which is any of the investment services or activities;
 - (iv) is a third country firm providing the direct electronic access in the course of exercising rights under Article 46.1 (general provisions) ~~or 47.3 (equivalence decision)~~ of the markets in financial instruments regulation;

...

...

- (c) ensure that a member of, or participant in, the trading venue retains responsibility for adherence to the requirements of any provisions of the law of the United Kingdom relied on by the United Kingdom before exit day to implement the markets in financial instruments directive in respect of orders and trades executed using the direct electronic access service, as those provisions have effect on exit day, in the case of rules made by the FCA under the Act, and as amended from time to time, in all other cases;

...

Paragraph 3G – Tick size regimes

- (1) ...

...

- (b) any financial instrument for which ~~regulatory~~ technical standards are adopted by the ~~European Commission~~ FCA pursuant to Article 49.3 or 4 under paragraphs 24 and 25 of Part 2 of Schedule 3 to of the markets in financial instruments regulation which is traded on that trading venue.

...

...

- (3) The tick size regime must comply with ~~any regulatory technical standards adopted by the European Commission pursuant to Article 49.3 or 4 of the markets in financial instruments directive~~ Commission Delegated Regulation (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange-traded funds.

...

Paragraph 3H – Synchronisation of business clocks

- (1) The [*UK RIE*] must synchronise the business clocks it uses to record the date and time of any reportable event in accordance with ~~regulatory technical standards adopted by the European Commission pursuant to Article 50 of the markets in financial instruments directive~~ Commission Delegated Regulation (EU) 2017/574 of 7 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the level of accuracy of business clocks.

...

...

2.6 General safeguards for investors, suspension and removal of financial instruments from trading and order execution on regulated markets

...

2.6.7 ~~EU~~ ...UK2.6.8 ~~EU~~ ...UK

...

2.6.10 ~~EU~~ ...UK2.6.11 ~~EU~~ ...UK2.6.11A ~~EU~~ ...UK2.6.11B ~~EU~~ ...UK2.6.11C ~~EU~~ ...UK

...

2.6.15 ~~EU~~ ...UK2.6.16 ~~EU~~ ...UK

...

2.6.18 ~~EU~~ ...UK2.6.18A ~~EU~~ ...UK2.6.18B ~~EU~~ ...

- UK
- 2.6.18C EU ...
- UK
- ...
- 2.7 Access to facilities**
- ...
- 2.7.1A UK Schedule to the Recognition Requirements Regulations, Paragraph 7B
- ...
- (2) In particular those rules must specify the obligations for users or members of its *facilities* arising from -
- ...
- (c) its professional standards for staff of any *investment firm* or ~~*credit institution*~~ qualifying credit institution having access to or membership of a financial market operated by the [UK *RIE*];
- (d) conditions established under sub-paragraph (3)(c) for access to or membership of a trading venue operated by the [UK *RIE*] by persons other than *investment firms* or ~~*credit institutions*~~ qualifying credit institutions; and
- ...
- ...
- (4) ~~Rules under this paragraph must enable—~~
- (a) ~~an *investment firm* authorised under Article 5 of [MiFID], or~~
- (b) ~~a *credit institution* authorised under the [CRD],~~
- ~~by the *competent authority* of another *EEA State* (including a *branch* established in the *United Kingdom* of such a firm or institution) to have direct or remote access to or membership of, any trading venue operated by the [UK *RIE*] on the same terms as a *UK firm*. [deleted]~~
- ...
- 2.7.1B UK Schedule to the Recognition Requirements Regulations, Paragraph 7C
- ...
- (3) ~~The rules under sub-paragraph (2) must enable an *investment firm* or~~

~~a credit institution authorised by the competent authority of another EEA State (including a branch established in the United Kingdom of such a firm or institution) to have access to those facilities on the same terms as a UK firm for the purposes of finalising or arranging the finalisation of transactions in financial instruments. [deleted]~~

...

2.7.1C UK Schedule to the Recognition Requirements Regulations, Paragraph 9ZC

...

- (1) The rules of the [UK RIE] about access to, or membership of, a regulated market operated by it must permit the [UK RIE] to give access to or admit membership to (as the case may be) only -
- (a) ~~an investment firm authorised under article 5 of [MiFID]~~ which has permission under Part 4A of the Act to carry on a regulated activity which is an investment service or activity;
 - (b) ~~a credit institution authorised in accordance with the capital requirements directive; or~~ a qualifying credit institution that has Part 4A permission to carry on the regulated activity of accepting deposits;

...

...

2.7A Position management and position reporting in relation to commodity derivatives

2.7A.1 UK ...

Paragraph 7BB – Position reporting

...

- (2) The [UK RIE] must -
- (a) where it meets the minimum threshold, as specified in a ~~delegated act adopted by the European Commission pursuant to Article 58.6 of the markets in financial instruments directive~~ article 83 (position reporting) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, make public a weekly report with the aggregate positions held by the different categories of persons for the different commodity derivatives, emission

allowances, or emission allowance derivatives traded on the trading venue specifying -

...

...

(4) The [UK RIE] must classify persons holding positions in commodity derivatives, emission allowances, or emission allowance derivatives according to the nature of their main business, taking account of any applicable authorisation or registration, as -

- (a) an investment firm or qualifying credit institution;
- (b) ~~an investment fund, either as an undertaking for collective investments investment in transferrable securities within the meaning of section 236A of the Act, an AIF or an AIFM within the meaning of regulations 3 and 4 respectively of the Alternative Investment Fund Managers Regulations 2013 (SI 2013/1773) as defined in the UCITS Directive, or an alternative investment fund or alternative investment fund manager as defined in the alternative investment fund managers directive;~~
- (c) ~~another financial institution, including an insurance undertaking and a reinsurance undertaking as defined in the Solvency 2 Directive and an institution for occupational retirement provision as defined in Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement;~~

another financial institution, including an insurance undertaking within the meaning of section 417 of the Act, a reinsurance undertaking within the meaning of section 417 of the Act, and an occupational pension scheme within the meaning of section 1(1) of the Pension Schemes Act 1993;

...

[Note: 1993 c.48. Section 1 was amended by section 239 of the Pension Schemes Act 2004 (c. 35) and S.I. 2007/3014.]

(5) The [UK RIE] must communicate the weekly report mentioned in sub-paragraph (2)(a) to the FCA ~~and ESMA.~~

...

2.12 Availability of relevant information and admission of financial instruments to trading

...

2.12.2AA UK Schedule to the Recognition Requirements Regulations, Paragraph 9ZB

...

...

(6) In this paragraph –

“the disclosure obligations” are the initial ongoing and ad hoc disclosure requirements contained in-

...

(b) ~~Articles 3, 5, 7, 8, 14 and 16 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;~~

those provisions of Part 6 of the Act and Part 6 rules (within the meaning of section 73A of the Act) which were relied on by the United Kingdom before exit day to implement—

(i) Articles 3, 5, 7, 8, 14 and 16 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;

(ii) Articles 4 to 6, 14 and 16 to 19 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market;

as they have effect on exit day in the case of Part 6 rules;

(c) ~~Articles 4 to 6, 15 and 16 to 19 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 relating to harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; and~~

any EU regulation, originally made under any of the provisions mentioned in paragraphs (a), (b)(i) and (b)(ii), which is retained direct EU legislation; and

(d) ~~EU legislation made under the provisions mentioned in paragraphs (a) to (c);~~

any subordinate legislation (within the meaning of the Interpretation Act 1978) made under any of the provisions mentioned in paragraphs (a), (b)(i) and (b)(ii) on or after exit

day.

and the legislation referred to in paragraphs (b) and (c) is given effect-

- (a) ~~in the United Kingdom by Part 6 of the [Financial Services and Markets Act 2000] Act and Part 6 rules (within the meaning of section 73A of the Act);~~
- (b) ~~in another EEA State by legislation transposing the relevant Articles in that State.~~

2.12.2B EU ...
UK

...

2.12.2D EU ...
UK

2.12.2E EU ...
UK

...

2.16A Operation of a multilateral trading facility (MTF) or an organised trading facility (OTF)

2.16A.1 UK Schedule to the Recognition Requirements Regulations, Paragraph 9A-9H

...

- (2) ~~[A UK RIE]~~ An exchange operating a multilateral trading facility or an organised trading facility must comply with those requirements of- —

- (a) ~~Chapter 1 of Title II of [MiFID]; and~~
any provisions of the law of the United Kingdom relied on by the United Kingdom before exit day to implement Chapter 1 of Title II of the markets in financial instruments directive—

(i) as they have effect on exit day, in the case of rules made by the FCA under the Act; and

(ii) as amended from time to time, in all other cases;

- (b) ~~any directly applicable EU legislation made under Chapter 1;~~
any EU regulation originally made under Chapter 1 of the markets in financial instruments directive which is retained direct EU legislation, or any subordinate legislation (within

the meaning of the Interpretation Act 1978) made under those provisions on or after exit day;

which are applicable to a market operator ~~...~~ operating such a facility.

...

Paragraph 9C - Specific requirements for multilateral trading facilities: access to a facility

...

- (a) ~~an investment firm authorised under Article 5 of the markets in financial instruments directive~~ which has permission under Part 4A of the Act to carry on a regulated activity which is an investment service or activity;
- (b) ~~a credit institution authorised in accordance with the capital requirements directive; or~~
a qualifying credit institution that has Part 4A permission to carry on the regulated activity of accepting deposits.

...

...

Paragraph 9E – SME growth markets

- (1) A [UK RIE] operating ~~a multilateral trading facility which has registered that facility as an SME growth market in accordance with Article 33 of the markets in financial instruments directive~~ (an “exchange-operated SME growth market”) must comply with rules made by the FCA for the purposes of this paragraph as they have effect on exit day.

...

...

Paragraph 9F – Specific requirements for organised trading facilities: execution of orders

...

- (3) If the [UK RIE] engages in matched principal trading in accordance with sub-paragraph (2)(a) it must establish arrangements to ensure compliance with the definition of matched principal trading ~~in article 4.1.38 of the markets in financial instruments directive.~~

...

- (6) The second discretion is whether to match a specific client order with other orders available on the organised trading facility at a given time, provided the exercise of such discretion is in compliance with specific instructions received from the client and in accordance with the [UK RIE's] obligations under ~~Article 27 of the markets in financial instruments directive.~~

- (a) section 11.2A of the Conduct of Business sourcebook;
- (b) Articles 64 to 66 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- (c) Commission Delegated Regulation (EU) 2017/575 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions; and
- (d) Commission Delegated Regulation (EU) 2017/576 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution.

...

- (9) The [UK RIE] must comply with rules made by the FCA as they have effect on exit day as to how Articles 24, 25, 27 and 28 of the markets in financial instruments directive apply to its operation of an organised trading facility.

...

- (11) In this paragraph –
- “close links” has the meaning given in ~~Article 4.1.1 of the markets in financial instruments directive~~ Article 2(1)(21) of the markets in financial instruments regulation;
- “investment firm” has the meaning given in ~~Article 4.1.1 of the markets in financial instruments directive~~ Article 2(1A) of the markets in financial instruments regulation;
- “non-equities” means bonds, structured finance products, emissions allowances and derivatives traded on a trading venue to

which Article 8(1) of the markets in financial instrument regulation applies.

...

2.16B Operation of a data reporting service

Schedule to the Recognition Requirements Regulations, Paragraph 9I

- 2.16B.1 UK A [*UK RIE*] providing data reporting services must comply ~~with~~ with ~~Title V of the markets in financial instruments directive.~~
- (a) the Data Reporting Services Regulations 2017 (SI 2017/699);
 - (b) the requirements of [*MAR 9*];
 - (c) Chapter 6 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
 - (d) Commission Delegated Regulation (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers;
 - (e) Commission Implementing Regulation (EU) 2017/1110 of 22 June 2017 laying down implementing technical standards with regard to the standard forms, templates and procedures for the authorisation of data reporting service providers and related notifications pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments.

...

Delete the text of REC 2A (Recognised Auction Platforms). The text is not shown but the chapter is marked [deleted] as shown below.

2A Recognised Auction Platforms [deleted]

...

Amend the following as shown.

3 Notification rules for UK recognised bodies

3.1 Application and purpose

Application

...

- 3.1.3A G ~~The notification rules in this chapter which apply to an RAP are without prejudice to notification rules which apply to a UK RIE which operates the RAP. However, a UK RIE which operates an RAP may make a single notification where a notification is required both in its capacity as a UK RIE and an RAP. [deleted]~~

...

3.4 Members of the management body and internal organisation

Purpose

...

- 3.4.4A R The following information is specified for the purposes of REC 3.4.2AR:

...

- (3) where applicable, a description of the responsibilities which he or she will have in the post to which he or she is to be appointed or elected, ~~including for a UK RIE which operates an RAP where the person has responsibilities both in the UK RIE and RAP, a~~ description of the responsibilities he has in respect of each body;
- (4) where applicable, a description of the responsibilities in the post from which he or she resigned or otherwise ceased to act, ~~including for a UK RIE which operates an RAP where the person had responsibilities both in the UK RIE and the RAP, a description of the responsibilities he or she had in respect of each body; and~~

...

...

3.13 Delegation of relevant functions

Application

...

- 3.13.1 G (1) The purpose of REC 3.13 is to enable the FCA to monitor any significant instances where UK recognised bodies outsource their functions to other persons (as permitted under Regulation 6 of the Recognition Requirements Regulations ~~or, in relation to an RAP,~~

~~under regulation 13 of the *RAP regulations*. See *REC 2.2* and *REC 2A.2*).~~

...

- 3.13.2 R Where a *UK recognised body* makes an offer or agrees to delegate any of its *relevant functions* to another *person*, it must immediately give the *FCA* notice of that event, and:

...

- (2) inform the *FCA* of the reasons why it is satisfied that it will continue to meet the *recognition requirements* ~~or (for an *RAP*) *RAP recognition requirements*~~ following that delegation;

...

...

3.14 Products, services and normal hours of operation

...

Hours of operation

- 3.14.11 R Where a *UK recognised body* proposes to change its normal hours of operation ~~or (for *RAPs*) the timing, frequency or duration of its bidding windows~~, it must give the *FCA* notice of that proposal, and particulars of, and the reasons for, the actions proposed, at the same time as the proposal is first formally communicated to its *members* or shareholders, or any group or class of them.

3.14A Operation of a trading venue

Purpose

- 3.14A.1 G ...

~~[Note: *MiFID RTS 3* and *MiFID ITS 4*, Annex IV provide for the format for notification by the operator of an *MTF* or *OTF* to its *Home State competent authority* of any arrangements to facilitate access to and trading on the *trading venue* by remote users, members or participants within the territory of another *EEA State*]~~

...

~~Operation of a recognised auction platform~~

- 3.14A.6 G If a ~~*UK RIE*~~ proposes to operate an *RAP*, it will need to make a separate application to be recognised as an *RAP* (see *REC 5 (Applications)*):
[deleted]

Pre- and post- trade transparency requirements for equity and non-equity instruments: form of waiver and deferral

...

- 3.14A.7B G ~~According to article 4(7) of *MiFIR*, waivers granted by competent authorities in accordance with articles 29(2) and 44(2) of Directive 2004/39/EC and articles 18, 19 and 20 of Regulation (EC) No 1287/2006 before 3 January 2018 shall be reviewed by *ESMA* by 3 January 2020. *ESMA* shall issue an opinion to the competent authority, assessing the continued compatibility of those waivers with the requirements established in *MiFIR* and any regulations made pursuant to it. The *FCA* will cooperate with *ESMA* in relation to the continued effect of existing waivers.~~
[deleted]

...

3.15 Suspension of services and inability to operate facilities

Purpose

- 3.15.1 G (1) The purpose of *REC* 3.15.2R to *REC* 3.15.5G is to enable the *FCA* to obtain information where a *UK recognised body* decides to suspend the provision of its services in relation to particular investments ~~or (for an *RAP*) decides to cancel an auction.~~ Planned changes to the provision of services should be notified to the *FCA* under *REC* 3.14.

...

- (3) ~~*REC* 3.15.8R to *REC* 3.15.9G provide for notification to the *FCA* where an *RAP* has to cancel an auction in specified circumstances.~~
[deleted]

...

~~Recognised auction platforms — cancellation of auctions~~

- 3.15.8 R ~~Where an *RAP* has to cancel an auction in the circumstances set out in articles 7(5) or 7(6) of the *auction regulation*, it must immediately give the *FCA* notice of that cancellation.~~ [deleted]

- 3.15.9 G Under article 7(7) of the *auction regulation*, an *RAP* is required to notify the *FCA* of: [deleted]

- (1) ~~the methodology used to determine the application of article 7(6) of the *auction regulation*; and~~
- (2) ~~modifications to that methodology made between bidding windows.~~

...

3.18 Membership

- 3.18.1 G (1) The purpose of *REC 3.18* is to enable the *FCA* to monitor changes in the types of *member* admitted by *UK recognised bodies* and to ensure that the *FCA* has notice of foreign jurisdictions in which the *members* of *UK recognised bodies* are based. *UK recognised bodies* may admit *persons* who are not *authorised persons* or *persons* who are not located in the *United Kingdom*, provided that the *recognition requirements* ~~or (for *RAPs*) *RAP recognition requirements*~~ continue to be met.
- (2) *REC 3.18.2R* focuses on the admission of *persons* who are not *authorised persons* (whether or not they are located in the *United Kingdom*) and on whether the specific *recognition requirement* ~~or (for an *RAP*) *RAP recognition requirement*~~ relating to access to *facilities* can still be met. *REC 3.18.3R* focuses on the admission of *members* from outside the *UK* and whether all relevant *recognition requirements* ~~or (for an *RAP*) *RAP recognition requirements*~~ can be met.

...

- 3.18.2 R Where a *UK recognised body* admits a *member* who is not an *authorised person* of a type of which, immediately before that time, that *UK recognised body* had not admitted to membership, it must immediately give the *FCA* notice of that event, and:

- (1) a description of the type of *person* whom it is admitting to membership; and
- (2) (in relation to a *UK RIE*) particulars of its reasons for considering that, in admitting that type of *person* to membership, it is able to continue to satisfy the *recognition requirement* in paragraph 4(2)(a) of the Schedule to the *Recognition Requirements Regulations* which applies to it; ~~and~~
- (3) ~~(in relation to an *RAP*) particulars of its reasons for considering that, in admitting that type of *person* to membership, it is able to continue to satisfy the *RAP recognition requirement* in regulation 20 (Access to auctions) which applies to it. [deleted]~~

- 3.18.3 R Where a *UK recognised body* admits for the first time a *member* whose head or registered office is in a jurisdiction from which that *UK recognised body* has not previously admitted *members*, it must immediately give the *FCA* notice of that event, and:

...

- (2) the name of any regulatory authority in that jurisdiction which

regulates that *member* in respect of activities relating to *specified investments* ~~or (for an *RAP*) relating to *emissions auction products*~~; and

- (3) particulars of its reasons for considering that, in admitting a *member* from that jurisdiction to membership, it is able to continue to satisfy the *recognition requirements* ~~or (for an *RAP*) the *RAP recognition requirements*~~ which apply to it.

...

3.22 Restriction of, or instruction to close out, open positions

...

- 3.22.2 R ~~Where an *RAP* proposes to impose a maximum bid size or take other remedial measures to mitigate risks of *market abuse, financial crime* or anti-competitive behaviour in accordance with article 57 of the *auction regulation*, the *RAP* must give the *FCA* notice of that event and details of the remedial measures proposed. [deleted]~~

...

3.24 Transfers of ownership

- 3.24.1 R When a *UK RIE* becomes aware of a transfer of ownership of the *UK RIE* which gives rise to a change in the *persons* who are in a position to exercise significant influence over the management of the *UK RIE* ~~or (in the case of a *UK RIE* that is also an *RAP*) over the management of the *RAP*~~, whether directly or indirectly, it must immediately notify the *FCA* of that event, and:

...

...

3.25 Significant breaches of rules and disorderly trading conditions

- 3.25.1 R A *UK RIE* ~~and an *RAP*~~ must immediately notify the *FCA* of:

...

3.26 Proposals to make regulatory provision

...

Disapplication of duty to notify proposal to make regulatory provision

- 3.26.4 R The duty in section 300(B)(1) of the *Act* does not apply to any of the following:
- (1) any *regulatory provision* which is required under ~~*EU law*~~ or any

enactment or rule of law in the *United Kingdom*; or

...

...

4 Supervision

4.1 Application and purpose

...

Purpose

4.1.2 G This chapter sets out the *FCA*'s approach to the supervision of *recognised bodies* and contains *guidance* on:

...

(2) the *FCA*'s approach to the exercise of its powers under:

(a) (for *RIEs*) section 296 of the *Act* (Appropriate regulator's power to give directions) ~~or (for *RAPs*) regulation 3 of the *RAP regulations*~~ to give directions to *recognised bodies* (*REC* 4.6);

(b) (for *RIEs*) section 297 of the *Act* (Revoking recognition) ~~or (for *RAPs*) regulation 4 of the *RAP regulations*~~ to revoke *recognition orders* (*REC* 4.7);

...

...

4.2A Publication of information by UK RIEs ~~and RAPs~~

4.2A.1 G Under subsections 292A(1) and (2) of the *Act*, a *UK RIE* must as soon as practicable after a *recognition order* is made in respect of it publish such particulars of the ownership of the *UK RIE*, including the identity and scale of interests of the *persons* who are in a position to exercise significant influence over the management of the *UK RIE* ~~or (where the *UK RIE* is also an *RAP*) the *RAP*~~, whether directly or indirectly, as the *FCA* may reasonably require.

4.2A.2 G Under subsections 292A(3) and (4) of the *Act*, a *UK RIE* must as soon as practicable after becoming aware of a transfer of ownership of the *UK RIE* which gives rise to a change of *persons* who are in a position to exercise significant influence over the management of the *UK RIE* ~~or (where the *UK RIE* is also an *RAP*) the *RAP*~~, whether directly or indirectly, publish such particulars of any such transfer as the *FCA* may reasonably require.

...

Delete the text of REC 4.2B (Exercise of passport rights by a UK RIE). The text is not shown but the section is marked [deleted] as shown below.

4.2B Exercise of passport rights by a UK RIE [deleted]

Amend the following as shown.

4.2C Control over a UK RIE

...

- 4.2C.2 G The *FCA* will approve an acquisition or an increase in control if it is satisfied that the acquisition by the *person* seeking approval does not pose a threat to the sound and prudent management of any financial market operated by the *UK RIE* (see section 301F(4) of the *Act*). ~~The reference to any financial market is to be read as including a reference to any *auction platform* as a result of the *RAP regulations*.~~

...

4.2D Suspension and removal of financial instruments from trading by the FCA

...

- 4.2D.10 G Under sections 313CC(2) and (3) of the *Act*, if the *FCA* receives notice that a *competent authority* of another *EEA State* has suspended or removed a *financial instrument* from trading on a trading venue or systematic internaliser pursuant to articles 32.2, 52.2 or 69.2 of *MiFID*, the *FCA* must require any *trading venue* or *systematic internaliser* falling under its jurisdiction as defined in section 313D of the *Act*, and which trades the same instrument, to suspend or remove the instrument from trading if the suspension or removal was due to suspected market abuse; a take-over bid; or the non-disclosure of *inside information* about the *issuer* or the instrument. The same applies in relation to a derivative which relates to or is referenced to the *financial instrument*. The *FCA* must revoke the requirement if the other *EEA State* informs the *FCA* it has lifted the suspension or removal. [deleted]
- 4.2D.11 G ~~The *FCA* receives notice for the purposes of REC 4.2D.10G when it is provided by a *competent authority* of another *EEA State* or *ESMA* in accordance with section 313CC(4) of the *Act*. [deleted]~~

4.2E Information: compliance of UK recognised bodies with EU specified

requirements

- 4.2E.1 G (1) Under section 293A of the *Act*, the *FCA* may require a *UK recognised body* to give such information as it reasonably requires in order to satisfy itself that the *UK recognised body* is complying with any qualifying ~~EU~~ provision that is specified, or of a description specified, for the purposes of section 293A of the *Act* by the Treasury.

...

...

4.4 Complaints

Recognised body's arrangements

- 4.4.1 G *Recognised bodies* may receive complaints from time to time from their *members* and other people, both about the conduct of *members* and about the *recognised body* itself. A *UK recognised body* will need to have satisfactory arrangements to investigate these complaints in order to satisfy the relevant *recognition requirements* (see *REC 2.15* and *REC 2.16*) ~~or *RAP recognition requirements* (see *REC 2A.3.2G*)~~.

...

4.6 The section 296 power to give directions

- 4.6.1 G Under section 296 of the *Act* (FCA's power to give directions) ~~and (for *RAPs*) under regulation 3 of the *RAP regulations*~~, the *FCA* has the power to give directions to a *recognised body* to take specified steps in order to secure its compliance with the *recognised body requirements*. In the case of a *UK RIE* ~~(including one which operates an *RAP*)~~ those steps may include granting the *FCA* access to the *UK RIE's* premises for the purposes of inspecting those premises or any documents on the premises and the suspension of the carrying on of any *regulated activity* by the *UK RIE* for the period specified in the direction.

- 4.6.3 G The *FCA* is likely to exercise its power under section 296 of the *Act* ~~or regulation 3 of the *RAP regulations*~~ if it considers that:

...

- 4.6.4 G Under section 298(7) of the *Act* (Directions and revocation: procedure), ~~and (for *RAPs*) regulation 5(7) of the *RAP regulations*~~, the *FCA* need not follow the consultation procedure set out in the rest of section 298 (see *REC 4.8*) or may cut short that procedure, if it considers it reasonably necessary to do so. ~~For *RAPs*, the *FCA* need not follow the procedure set out in regulation 5 of the *RAP regulations* or may cut short the procedure, if it considers it essential to do so.~~

...

4.7 The section 297 power to revoke recognition

4.7.1 G Under section 297 of the *Act* (Revoking recognition) ~~and (for *RAPs*) under regulation 4 of the *RAP regulations*~~, the *FCA* has the power to revoke a *recognition order* relating to a *recognised body*.

...

4.7.2A G ~~Where the *FCA* makes a revocation order under section 297 of the *Act* in relation to a *UK RIE* which is also an *RAP*, the *FCA* will also revoke the *recognition order* relating to its status as an *RAP*. [deleted]~~

4.7.3 G The *FCA* will usually consider revoking a *recognition order* if:

...

- (2) It would not be possible for the *recognised body* to comply with a direction under section 296 of the *Act* (*FCA*'s power to give directions) ~~or (for *RAPs*) regulation 3 of the *RAP regulations*~~; or
- (3) for some other reason, it would not be appropriate for the *FCA* to give a direction under section 296 ~~or (for *RAPs*) regulation 3 of the *RAP regulations*~~; or
- (4) in the case of a *UK RIE*, it has not carried on the business of an investment exchange during the 12 *months* beginning with the day on which the *recognition order* took effect in relation to it, or it has not carried on the business of an investment exchange at any time during the period of six *months* ending with the day the *recognition order* is revoked. ~~;~~
- (5) ~~in the case of an *RAP* in relation to its *RAP recognition order*, it has not carried on the business of an *auction platform* during the 12 *months* beginning with the day on which the *RAP recognition order* took effect in relation to it, or it has not carried on the business of an *auction platform* at any time during the period of six *months* ending with the day the *RAP recognition order* is revoked. [deleted]~~

4.7.4 G The *FCA* would be likely to consider the conditions in *REC 4.7.3G(2)* or *REC 4.7.3G(3)* to be triggered in the following circumstances:

...

- (3) the *recognised body* is failing or has failed to comply with a direction made under section 296 of the *Act* ~~or (for *RAPs*) regulation 3 of the *RAP regulations*~~; or

...

...

4.8 The section 298 procedure

- 4.8.1 G A decision to:
- (1) revoke a *recognition order* under section 297 of the *Act* (Revoking recognition) ~~or (for *RAPs*) regulation 4 of the *RAP regulations*~~; or
 - (2) make a direction under section 296 (*FCA's* powers to give directions) ~~or (for *RAPs*) regulation 3 of the *RAP regulations*~~; or
 - (3) refuse to make a *recognition order* under section 290 (Recognition orders) or 290A (Refusal of recognition on ground of excessive regulatory provision) ~~or (for *RAPs*) regulation 2 of the *RAP regulations*~~;

is a serious one and section 298 of the *Act* (Directions and revocation: procedure) ~~and (for *RAPs*) regulation 5 of the *RAP regulations*~~ sets out procedures (see *REC* 4.8.9G) which the *FCA* will follow unless:

in the case of a revocation of a *recognition order*, the *recognised body* concerned has given its consent (see section 297(1) ~~or regulation 4(1) of the *RAP regulations*~~); or:

~~(G (a))~~ in the case where the *FCA* proposes to make a direction under section 296, it considers it is reasonably necessary not to follow, or to cut short, the procedure (see *REC* 4.8.7G); ~~or:~~

~~(G (b) (for *RAPs*))~~ in a case where the *FCA* proposes to make a direction under regulation 3 of the *Rap regulations*, it considers it is essential not to follow, or to cut, short, the procedure.

...

- 4.8.3 G In considering whether it would be appropriate to exercise the powers under section 296 or section 297 of the *Act* ~~or (for *RAPs*) regulation 3 or 4 of the *RAP regulations*~~, the *FCA* will have regard to all relevant information and factors including:

...

...

- 4.8.5 G The procedures laid down in section 298 of the *Act* ~~and (for *RAPs*) regulation 5 of the *RAP regulations*~~ are summarised, with the *FCA's* guidance about the actions it proposes to take in following these ~~procedures~~ procedures, in the tables at *REC* 4.8.9G and *REC* 4.8.10G respectively.

- 4.8.6 G Before exercising its powers under section 296 or section 297 of the *Act* ~~or (for *RAPs*) regulation 3 or 4 of the *RAP regulations*~~, the *FCA* will usually

discuss its intention, and the basis for this, with the *members of the management body* or other appropriate representatives of the *recognised body*. It will usually discuss its intention not to make a *recognition order* with appropriate representatives of the applicant.

Key steps in the section 298 procedure

...

4.8.10 G For RAPs, key steps in the regulation 5 procedure [deleted]

	The <i>FCA</i> will:	<i>Guidance</i>
(1)	give written notice to the <i>RAP</i> (or applicant);	The notice will state why the <i>FCA</i> intends to take the action it proposes to take, and include an invitation to make representations, and the date by which representations should be made.
(2)	take such steps as it considers reasonably practicable to bring the notice to the attention of the <i>members</i> of the <i>RAP</i> or of the applicant, as the case may be;	The <i>FCA</i> will also notify <i>persons</i> individually (as far as it considers it reasonably practicable to do so) if it considers that the action it proposes to take would affect them adversely in a way which would be different from its effect on other <i>persons</i> of the same class.
(3)	publish the notice so as to bring it to the attention of other <i>persons</i> likely to be affected;	

(4)	receive representations from the <i>RAP</i> or applicant concerned, any <i>member</i> of the <i>RAP</i> or applicant, and any other <i>person</i> who is likely to be affected by the action the <i>FCA</i> proposes to take;	The <i>FCA</i> will not usually consider oral representations without first receiving written representations from the <i>person</i> concerned. It will normally only hear oral representations from the <i>RAP</i> (or applicant) itself or of a <i>person</i> whom it has notified individually, on request.
(5)	write promptly to any <i>person</i> who requests the opportunity to make oral representations if it decides not to hear that <i>person's</i> representations;	The <i>FCA</i> will indicate why it will not hear oral representations and the <i>FCA</i> will allow the <i>person</i> concerned further time to respond.
(6)	have regard to representations made;	
(7)	(when it has reached its decision) notify the <i>RAP</i> (or applicant) concerned in writing;	
(8)	(if it has decided to give a direction, or revoke or refuse to make a <i>recognition order</i>) take such steps as it	The <i>FCA</i> will usually give notice of its decision to the same <i>persons</i> and in the same manner as it gave notice of its

	considers reasonably practicable to bring its decision to the attention of <i>members</i> of the RAP or applicant and to other <i>persons</i> likely to be affected.	intention to act.
--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------

4.9 Disciplinary measures

4.9.1 G (1) Under sections 312E and 312F of the *Act*, if the *FCA* considers that a *recognised body* has contravened a requirement imposed by the *FCA* under any provision of the *Act* that relates to a *RIE*, or under any provision of the *Act* whose contravention constitutes an offence the *FCA* has power to prosecute, or by a qualifying ~~EU~~ provision specified by the Treasury it may:

- (a) publish a statement to that effect; or
- (b) impose on the body a financial penalty of such amount as it considers appropriate.

...

...

5 Applications for Recognition (UK recognised bodies)

5.1 Introduction and legal background

...

5.1.1A G ~~A UK RIE may apply to the FCA for recognition as an RAP under regulation 2 of the RAP regulations. [deleted]~~

...

5.2 Application process

...

5.2.3 G An application should:

- (1) be made in accordance with any directions the *FCA* may make under section 287 (Application by an investment exchange) of the *Act* or ~~(for RAPs) regulation 2 of the RAP regulations;~~

...

...

- 5.2.5A G ~~A UK RIE applying for recognition as an RAP may wish to consult the FCA about the extent to which information which it has already supplied in connection with its status as a UK RIE can be used to support an application to be recognised as an RAP. [deleted]~~
- 5.2.6 G Under section 289 of the *Act* (Applications: supplementary) ~~or (for an RAP applicant) regulation 2 of the RAP regulations~~, the *FCA* may require the applicant to provide additional information, and may require the applicant to verify any information in any manner. In view of their likely importance for any application, the *FCA* will normally wish to arrange for its own inspection of an applicant's information technology systems.
- 5.2.6A G In the case of an application to become a *UK RIE* ~~or an RAP~~, under subsection 290(1B) of the *Act* ~~and (for an RAP applicant) regulation 2(8) of the RAP regulations~~, the application must be determined by the *FCA* before the end of the period of six *months* beginning with the date on which it receives the completed application.

...

- 5.2.12 G Where the *FCA* considers that it is unlikely to make a *recognition order* it will discuss its concerns with the applicant as early as possible with a view to enabling the applicant to make changes to its rules or guidance, or other parts of the application (see *REC* 5.2.7G). If the *FCA* decides that it will not make a *recognition order*, it will follow the procedure set out in section 298 of the *Act* (Directions and revocation: procedure) ~~or (in the case of an RAP) regulation 5 of the RAP regulations~~ and described in more detail in *REC* 4.8.

Information and supporting documentation (see *REC* 5.2.4G)

- 5.2.14 G (1) Details of the applicant's constitution, structure and ownership, including its memorandum and articles of association (or similar or analogous *documents*) and any agreements between the applicant, its owners or other *persons* relating to its constitution or governance (if not contained in the information listed in *REC* 5.2.3AG). ~~An applicant for RAP status must provide details of the relationship between the governance arrangements in place for the UK RIE and the RAP.~~

...

- (3) Details of the *facilities* which the applicant plans to operate, including details of the trading platform ~~or (for an RAP) auction platform~~, settlement arrangements, clearing facilitation services and *custody* services which it plans to supply. ~~An applicant for RAP status must provide details on the relationship between the auction platform and any secondary market in emissions auction~~

~~products which it operates or plans to operate.~~

...

- (18) Details of membership selection criteria, rules and procedures; ~~including (for an RAP) details of how the rules of the UK RIE will change in order to reflect RAP status.~~

...

6 Overseas Investment Exchanges

6.1 Introduction and legal background

- 6.1.1 G (1) obtain a *Part 4A permission* from the *FCA*; or
- (2) ~~(in the case of an EEA firm or a Treaty firm) qualify for authorisation under Schedule 3 (EEA Passport Rights) or Schedule 4 (Treaty rights) to the Act, respectively; or [deleted]~~
- (3) ~~(in the case of an EEA market operator) obtain exempt person status by exercising its passport rights under article 34(6) of MiFID (in the case of arrangements relating to a multilateral trading facility) or organised trading facility) or article 53(6) of MiFID (in the case of arrangements relating to a regulated market); or [deleted]~~

...

...

Delete the text of REC 6A (EEA market operators in the United Kingdom). The text is not shown but the chapter is marked [deleted] as shown below.

6A EEA market operators in the United Kingdom [deleted]

...

Amend the following as shown.

Sch 1 Record keeping requirements

1.1G ...

UK recognised bodies have obligations under the *Recognition Requirements Regulations* to ensure that satisfactory arrangements are made for recording transactions effected by, or cleared through, their *facilities*. See *REC 2.9* for guidance (~~in the case of *RAPs*, see *REC 2.9* as applied by *REC 2A.3.2G*~~).

~~*RAPs* also have separate record keeping obligations under the *auction regulation*.~~

Sch 2 Notification requirements

2.1G The following table summarises the notification requirements applicable to all *recognised bodies*. The *notification rules* are set out in detail in *REC 3* (Notification rules for UK recognised bodies) and *REC 6.7* and, to avoid unnecessary repetition, are not set out in detail here. ~~The *notification rules* for *RAPs* differ in some respects from the *notification rules* for *UK RIEs* (for example, due to requirements contained in the *auction regulation*).~~

...

2.2G

Reference to legislation or Handbook	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>RAPs</i>				
The <i>auction regulation</i> article 7(7)	Either a methodology or a modification to that methodology as specified by the <i>auction regulation</i>	See <i>REC 3.15</i>	Event concerned	Without delay
Notification rules for <i>UK recognised bodies</i> (see <i>REC 3</i> (Notification rules for UK recognised bodies))				
...				
<i>REC 3.14</i>	Products, services and normal hours of operation or (for <i>RAPs</i>) the timing, frequency or duration of its	See <i>REC 3.14</i>	See <i>REC 3.14</i>	Immediately

	bidding windows			
...				
REC 3.15	Suspension of services and inability to operate facilities or (for RAPs) the cancellation of an auction	See REC 3.15	Event concerned	Immediately
...				
REC 3.18	Membership	Information regarding new types of <i>member</i> and reasons for considering the <i>recognition requirements or (for RAPs) the RAP recognition requirement in regulation 20</i> can still be met	Admission of new type of non- <i>authorised person</i> or <i>person</i> from new non-UK jurisdiction to membership	Immediately
...				
REC 3.22	Restriction <u>on open position</u> or instruction to close out; open positions or (for RAPs) restriction on maximum bid size or other remedial measures	Details of decision to restrict member's open position or instruction to close out position or (for RAPs) details of the event and remedial measures proposed	Decision to take action or (for RAPs) proposal to take action	Immediately

...				
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...