

Collective Investment Schemes

Chapter 1

Introduction

1.1 Applications and purpose

Application

- 1.1.1 **G** (1) This sourcebook, except for ■ COLL 9 (Recognised schemes), applies to:
- (a) *investment companies with variable capital (ICVCs);*
 - (b) *ACDs, other directors and depositaries of ICVCs;*
 - (c) *managers and trustees of authorised unit trust schemes (AUTs);*
 - (cA) *authorised fund managers, depositaries and nominated partners of authorised contractual schemes (ACs); and*
 - (d) *to the extent indicated, UK UCITS management companies operating EEA UCITS schemes.*
- (2) ■ COLL 9 applies to operators of schemes that are recognised schemes and to those seeking to secure recognised status for such schemes.
- (3) ■ COLL 11.5 (Auditors) also applies to auditors of master UCITS and feeder UCITS which are UCITS schemes.
- (4) This sourcebook also applies to EEA UCITS management companies of UCITS schemes to the extent required by the UCITS Directive.
- (5) ■ COLL TP 1.1(48) contains transitional provisions that apply in relation to any scheme that will need to become a regulated money market fund in accordance with the Money Market Funds Regulation, and which operates as a scheme prior to 21 July 2018.

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

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.

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.

Purpose

1.1.2

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- (1) The general purpose of this sourcebook is to contribute to the *FCA* meeting its *statutory objectives* of the protection of *consumers*. It provides a regime of product regulation for *authorised funds*, which sets appropriate standards of protection for investors by specifying a number of features of those products and how they are to be operated.
- (2) In addition, this sourcebook implements part of the requirements of the *UCITS Directive* to meet *EU* law obligations relevant to *authorised funds* and *management companies*, with other requirements implemented in other parts of the *Handbook*.

UCITS management company and product passport

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■ 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*.

The Collective Investment Schemes Information Guide

1.1.3

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The Collective Investment Schemes Information Guide *COLLG* provides some general background material on the regulatory structure surrounding *scheme* regulation in the *UK*.

1.2 Types of authorised fund

Types of authorised fund

1.2.1

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An application for an *authorisation order* must propose that the *scheme* be one of the following types:

- (1) a *UCITS scheme*;
- (2) a *non-UCITS retail scheme*, including:
 - (a) a *non-UCITS retail scheme* operating as a *fund of alternative investment funds (FAIF)*; and
 - (b) a *non-UCITS retail scheme* which is an *umbrella* with *sub-funds* operating as:
 - (i) *FAIFs*;
 - (ii) *standard non-UCITS retail schemes*; or
 - (iii) a mixture of (i) and (ii); or
- (3) a *qualified investor scheme*.

Umbrella schemes

1.2.1A

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Any *authorised fund*, except for an *ACS* that is a *limited partnership scheme*, may be structured as an *umbrella* with separate *sub-funds*.

[Note: article 1(2) second paragraph of the *UCITS Directive*]

Types of authorised fund - explanation

1.2.2

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- (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:
 - (a) ■ COLL 3.2.8 R (*UCITS obligations*); and
 - (b) the investment and borrowing powers rules for *UCITS schemes* set out in ■ COLL 5.2 to ■ COLL 5.5.
- (2)
 - (a) *Non-UCITS retail schemes* are *schemes* that do not comply with all the conditions set out in the *UCITS Directive*.
 - (b) A *non-UCITS retail scheme* is an *AIF* and must be managed by an *AIFM*.
 - (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*.

- (d) This sourcebook contains the stricter requirements for a *non-UCITS retail scheme*.
 - (e) A *full-scope UK AIFM* must also comply with the requirements in *FUND* and any other applicable provisions of *AIFMD*.
 - (f) *Non-UCITS retail schemes* could become *UCITS schemes*, provided they are changed, so as to comply with the conditions set out in the *UCITS Directive*.
 - (g) *Non-UCITS retail schemes* operating as *FAIFs* have wider powers to invest in *collective investment schemes* than other *non-UCITS retail schemes*.
- (2A) A *non-UCITS retail scheme* may also be structured as an *umbrella* with *sub-funds* operating as:
- (a) *FAIFs*;
 - (b) standard *non-UCITS retail schemes*; or
 - (c) a mixture of (a) and (b).

In these cases, *rules* relating to investment powers and borrowing limits apply to each *sub-fund* as they would to a *scheme*.

- (3) (a) *Qualified investor schemes* may only be promoted to:
- (i) *professional clients*; and
 - (ii) *retail clients* who are sophisticated investors, on the same terms as *non-mainstream pooled investments*.
- (b) A *qualified investor scheme* is an *AIF* and must be managed by an *AIFM*.
- (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*.
- (d) This sourcebook contains the stricter requirements for a *qualified investor scheme*.
- (e) A *full-scope UK AIFM* must also comply with the requirements in *FUND* and any other applicable provisions of *AIFMD*.
- (f) *Qualified investor schemes* could change to become *non-UCITS retail schemes* or *UCITS schemes*.
- (4) The changes referred to in (2) and (3) require approval by the *FCA* and further information on that process is provided in ■ [COLLG 3A.1.6 G](#) (Notification of changes to unit trusts (sections 251 and 252A)) and ■ [COLLG 4A.1.3 G](#) (Notification of changes to ICVCs (Regulations 21 and 22A)).

1.2.3

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UCITS schemes

A *UCITS scheme* is deemed to be established in the *United Kingdom*, irrespective of whether it has been established under the laws of England and Wales, Scotland or Northern Ireland.

[Note: article 4 of the *UCITS Directive*]

1.2.4

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Master UCITS

A *master UCITS* that has two or more *feeder UCITS* as its only *unitholders* satisfies the requirement that a *UCITS scheme* must invest capital raised from the public.

[Note: article 58(4) of the *UCITS Directive*]

1.2.5

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Pension feeder funds

(1) Except for (2), all provisions of the *Handbook* that apply:

- (a) to a *feeder UCITS* are also applicable to a *pension feeder fund* that is constituted as a *UCITS scheme*; and
- (b) to a *feeder NURS* are also applicable to a *pension feeder fund* that is constituted as a *non-UCITS retail scheme*.

(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).