

Chapter 14

Charity authorised investment funds

14.1 Introduction

Application

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This chapter applies to:

- (1) an *authorised fund manager of a charity authorised investment fund*;
- (2) an *ICVC that is a charity authorised investment fund*;
- (3) the *depository of a charity authorised investment fund*; and
- (4) the *authorised fund manager and the depository of an authorised fund that was previously registered as a charity with the Charity Commission*.

Purpose

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This chapter sets out modifications to the *rules and guidance* in this sourcebook for *authorised fund managers and depositories of charity authorised investment funds*.

Types of charity authorised investment fund

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- (1) A *charity authorised investment fund* may be:
 - (a) a *UCITS scheme*; or
 - (b) a *non-UCITS retail scheme*; or
 - (c) a *qualified investor scheme*.
- (2) A *charity authorised investment fund* may be structured as:
 - (a) an *authorised unit trust (AUT)*; or
 - (b) an *investment company with variable capital (ICVC)*; or
 - (c) an *authorised contractual scheme (ACS)*.



14.2 Registration with the Charity Commission

14.2.1 **R** The *authorised fund manager* of a *charity authorised investment fund* must notify the *FCA* without undue delay when it receives its registration as a charity from the Charity Commission.

14.2.2 **R** The *authorised fund manager* and the *depository* of an *authorised fund* that was previously registered as a charity with the Charity Commission must notify the *FCA* without undue delay when it ceases to be registered as a charity with the Charity Commission.

14.3 Advisory committee

- 14.3.1** **G** A *charity authorised investment fund* may have an advisory committee which is independent from the *authorised fund manager* and the *depository* if the advisory committee has a consultative function only.
- 14.3.2** **R** If the *charity authorised investment fund* has an advisory committee the *authorised fund manager* must ensure that:
- (1) the *instrument constituting the fund* sets out the role and responsibilities of the advisory committee; and
 - (2) the *prospectus* contains at least the following information about the advisory committee:
 - (a) a description of its role and responsibilities;
 - (b) its membership;
 - (c) how its members are nominated and how their membership is terminated; and
 - (d) how meetings are called and operated, including the quorum.
- 14.3.3** **R** If the *charity authorised investment fund* has an advisory committee, the *authorised fund manager* must ensure that on the request of the committee, the *scheme's* annual long report includes a statement prepared and approved by the committee.
- 14.3.4** **G** The statement may address matters such as:
- (1) how the advisory committee is discharging its role and responsibilities as set out in the *instrument constituting the fund*;
 - (2) any observations the committee may have on how the *authorised fund manager* has carried out its functions during the *annual accounting period*; and
 - (3) any other matters the committee considers of interest to the *unitholders* of the *charity authorised investment fund*.
- 14.3.5** **R** (1) The *authorised fund manager* or *depository* must convene a general meeting of *unitholders* if it receives a notice from the advisory committee of a *charity authorised investment fund* which:

- (a) states the objects of the meeting;
 - (b) is dated; and
 - (c) is signed by or on behalf of the advisory committee.
- (2) The *authorised fund manager* or the *depository* must ensure the general meeting of the *authorised fund* takes place no later than eight weeks after receipt of the notice in (1).

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The *authorised fund manager* and *depository* of a *charity authorised investment fund* must keep records of any dealings with an advisory committee for at least five calendar years.

14.4 Income allocation and distribution

Income reserve account

- 14.4.1** **R** As an exception to ■ COLL 6.8.3R(3) (Income allocation and distribution), a *charity authorised investment fund* is not required to transfer income to a *distribution account* where this is allowed by ■ COLL 14.4.2R.
- 14.4.2** **R**
- (1) The *authorised fund manager* and the *depository* of a *charity authorised investment fund* may establish an income reserve account for the *scheme* if this is provided for in:
 - (a) the *instrument constituting the fund*; and
 - (b) the *prospectus*.
 - (2)
 - (a) The *authorised fund manager* may instruct the *depository* to transfer up to 15% of the income available for allocation or distribution on an *annual income allocation date* to the income reserve account.
 - (b) Any income transferred under (a) remains part of the *income property* of the *scheme* but is not available for allocation or distribution.
 - (c) The transfer in (a) must be for the sole purpose of avoiding fluctuations in the income available for allocation or distribution for the *annual accounting period*.
 - (3) The *authorised fund manager* may instruct the *depository* to transfer income in the income reserve account to the *income account*.
 - (4) The *authorised fund manager* and the *depository* must treat:
 - (a) any income transferred from the income reserve account to the *income account* as income available for allocation or distribution at the next *annual income allocation date*; and
 - (b) any interest or other amounts earned on the income in the income reserve account as income due to the *scheme*.
- 14.4.3** **R** The *authorised fund manager* of a *charity authorised investment fund* with an income reserve account must not allow a payment that has been allocated to *income property* in the first instance to be made from the *capital account* if that payment could be met, in whole or in part, by transferring income from the income reserve account to the *income account*.

- 14.4.4** **R**
- (1) ■ COLL 14.4.1R ceases to apply if the *scheme* commences winding up or termination in accordance with:
 - (a) ■ COLL 7.3.6R (Consequences of commencement of winding up or termination) for an *ICVC*; or
 - (b) ■ COLL 7.4.3R (When an *AUT* is to be wound up or a sub-fund terminated) for an *AUT*; or
 - (c) ■ COLL 7.4A.4R (When an *ACS* is to be wound up or a sub-fund of a co-ownership scheme terminated) for an *ACS*.
 - (2) Any income in the income reserve account must be transferred to the *income account* as soon as practicable after the winding up or termination commences.

Total return approach

- 14.4.5** **R**
- (1) The *authorised fund manager* and *depository* of a *charity authorised investment fund* may adopt a total return approach to the allocation or distribution of income where this is provided for in:
 - (a) the *instrument constituting the fund*; and
 - (b) the *prospectus*.
 - (2) Under a total return approach the *authorised fund manager* may make transfers between the *capital account* and the *income account* in addition to those in ■ COLL 6.8.3R(3A)(c).
 - (3) The *authorised fund manager* and *depository* must ensure that any transfer under a total return approach:
 - (a) is solely for the purpose of meeting the pre-determined target amount disclosed in the *prospectus* in accordance with ■ COLL 14.4.6R(1); and
 - (b) is consistent with the explanation given in the *prospectus* in accordance with ■ COLL 14.4.6R(2).

14.4.6 **R** If the *charity authorised investment fund* has adopted a total return approach to the allocation or distribution of income, the *authorised fund manager* must ensure that the *prospectus* contains:

- (1) the pre-determined target of the income available for allocation or distribution in any *annual accounting period*; and
- (2) an explanation of how the target amount is consistent with the investment objective and policy and the distribution policy of the *scheme*.

