Collective Investment Schemes

Chapter 4

Investor Relations



4.3 Approvals and notifications

Application

4.3.1 R This section applies to an authorised fund manager.

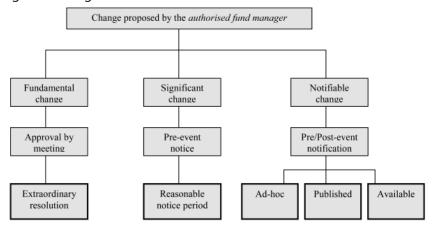
Explanation

4.3.2 G

- (1) The diagram in COLL 4.3.3 G explains how an authorised fund manager should treat changes it is proposing to a scheme and provides an overview of the rules and guidance in this section.
- (2) Regulation 21 of the OEIC Regulations (The Authority's approval for certain changes in respect of a company), section 261Q of the Act (Alteration of contractual schemes and changes of operator or depositary) and section 251 of the Act (Alteration of schemes and changes of manager or trustee) require the prior approval of the FCA for certain proposed changes to an authorised fund, including a change of the authorised fund manager or depositary or a change to the instrument constituting the fund. This should be kept in mind when considering any proposed change.

Diagram: Change event

4.3.3 G This diagram belongs to ■ COLL 4.3.2 G.



Fundamental change requiring prior approval by meeting

4.3.4 R

(1) The authorised fund manager, must, by way of an extraordinary resolution, obtain prior approval from the unitholders for any

COLL 4/2

proposed change to the *scheme* which, in accordance with (2), is a fundamental change.

- (2) A fundamental change is a change or event which:
 - (a) changes the purposes or nature of the scheme; or
 - (b) may materially prejudice a unitholder; or
 - (c) alters the risk profile of the scheme; or
 - (d) introduces any new type of payment out of scheme property.

Guidance on fundamental changes

4.3.5 G

- (1) Any change may be fundamental depending on its degree of materiality and effect on the scheme and its unitholders. Consequently an authorised fund manager will need to determine whether in each case a particular change is fundamental in nature or not.
- (2) For the purpose of COLL 4.3.4R (2)(a) to COLL 4.3.4R (2)(c) a fundamental change to a *scheme* is likely to include:
 - (a) any proposal for a *scheme of arrangement* referred to in COLL 7.6.2 R (Schemes of arrangement: requirements);
 - (b) a change in the investment policy to achieve capital growth from investment in one country rather than another;
 - a change in the investment objective or policy to achieve capital growth through investment in fixed interest rather than equity investments;
 - (d) a change in the investment policy to allow the *authorised fund* to invest in *derivatives* as an investment strategy which increases its volatility;
 - (e) a change to the characteristics of a *scheme* to distribute income annually rather than *monthly*; or
 - (f) the introduction of *limited redemption arrangements*.

Significant change requiring pre-event notification

4.3.6 R

- (1) The authorised fund manager must give prior written notice to unitholders, in respect of any proposed change to the operation of a scheme that, in accordance with (2), constitutes a significant change.
- (2) A significant change is a change or event which is not fundamental in accordance with COLL 4.3.4 R but which:
 - (a) affects a *unitholder*'s ability to exercise his rights in relation to his investment; or
 - (b) would reasonably be expected to cause the *unitholder* to reconsider his participation in the *scheme*; or
 - (c) results in any increased payments out of the scheme property to an authorised fund manager or any other director of an ICVC or an associate of either; or
 - (d) materially increases other types of payment out of *scheme* property.

(3) The notice period in (1) must be of a reasonable length (and must not be less than 60 days).

[deleted] 4.3.6A R

Guidance on significant changes

- G 4.3.7
- (1) Changes may be significant depending in each case on their degree of materiality and effect on the scheme and its unitholders. Consequently the authorised fund manager will need to determine whether in each case a particular change is significant in nature or
- (2) For the purpose of COLL 4.3.6 R a significant change is likely to include:
 - (a) a change in the method of *price* publication;
 - (b) a change in any operational policy such as dilution policy or allocation of payments policy;
 - (c) an increase in the preliminary charge where units are purchased through a group savings plan; or
 - (d) a change in the pricing arrangements for units of the scheme so as to cause a single-priced authorised fund to become a dualpriced authorised fund, or vice versa.
- (3) Where the *directors* of an *ICVC* elect to discontinue holding annual general meetings under paragraph 37A of the OEIC Regulations, they are required to give 60 days' written notice to shareholders. For the purpose of ■ COLL 4.3.6 R this should be treated as a significant change to the operation of the scheme.
- (4) [deleted]

Notifiable changes

- 4.3.8 R
- (1) The authorised fund manager must inform unitholders in an appropriate manner and timescale of any notifiable changes that are reasonably likely to affect, or have affected, the operation of the scheme.
- (2) A notifiable change is a change or event, other than a fundamental change under ■ COLL 4.3.4 R or a significant change under ■ COLL 4.3.6 R, which a *unitholder* must be made aware of unless the authorised fund manager concludes that the change is insignificant.

Guidance on notifiable changes

- 4.3.9 G
- (1) The circumstances causing a notifiable change may or may not be within the control of the authorised fund manager.
- (2) For the purpose of COLL 4.3.8 R (Notifiable changes) a notifiable change might include:

- (a) a change of named *investment manager* where the *authorised fund* has been marketed on the basis of that individual's involvement;
- (b) a significant political event which impacts on the *authorised fund* or its operation;
- (c) a change to the time of the valuation point;
- (d) the introduction of limited issue arrangements; or
- (e) a change of the *depositary* or a change in the name of the *authorised fund*.
- (3) The appropriate manner and timescale of notification would depend on the nature of the change or event. Consequently the *authorised* fund manager will need to assess each change or event individually.
- (4) An appropriate manner of notification could include:
 - (a) sending an immediate notification to the unitholder;
 - (b) publishing the information on a website; or
 - (c) the information being included in the next long report of the *scheme*.
- 4.3.10 R
- (1) [deleted]
- (2) [deleted]

Change events relating to feeder UCITS and feeder NURS

- 4.3.11 R
- Where the authorised fund manager of either a feeder UCITS or a feeder NURS is notified of any change in respect of its master UCITS or qualifying master scheme which has the effect of a change to the feeder UCITS or feeder NURS, the authorised fund manager must:
 - (1) classify it as a fundamental change, significant change or a notifiable change to the *feeder UCITS* or *feeder NURS* in accordance with the *rules* in this section; and
 - (2) (a) for a fundamental change, obtain approval from the *unitholders* by way of an *extraordinary resolution*; or
 - (b) for a significant change, give written notice to *unitholders* of that change; or
 - (c) for a notifiable change, comply with COLL 4.3.8 R (Notifiable changes).
- 4.3.12 R
- The actions required by COLL 4.3.11 R (2)(a) and (b) must be carried out as soon as reasonably practicable after the *authorised fund manager* of the *feeder UCITS* or *feeder NURS* has been informed of the relevant change to the *master UCITS* or *qualifying master scheme*.
- 4.3.13 G
- (1) The authorised fund manager of the feeder UCITS or feeder NURS should assess the change to the master UCITS or qualifying master

scheme in terms of its impact on the feeder UCITS or feeder NURS. For example, a change to the investment objective and policy of the master UCITS or qualifying master scheme that alters its risk profile would constitute a fundamental change for the feeder UCITS or feeder NURS. In order for the feeder UCITS or feeder NURS to continue investing in the master UCITS or qualifying master scheme, the authorised fund manager of the feeder UCITS or feeder NURS should obtain the approval of unitholders by way of an extraordinary resolution, or else make a proposal to invest in a different master UCITS or qualifying master scheme. For a feeder UCITS this should be done in accordance with ■ COLL 11.2.2 R (Application for approval of an investment in a master UCITS).

- (2) Not all changes affecting the master UCITS or qualifying master scheme will have the same significance for the feeder UCITS or feeder NURS and its unitholders. For example, a change to how the prices of the units in the master UCITS or qualifying master scheme are published might not be a significant change for the feeder UCITS or feeder NURS if the prices of its own units continue to be published in the same way.
- (3) Where the authorised fund manager of the feeder UCITS or feeder NURS receives insufficient notice of the intended change to the master UCITS or qualifying master scheme to be able to seek the prior approval of unitholders to any fundamental change or to inform them at least 60 days in advance of any significant change, it should nevertheless use reasonable endeavours to inform them of the change as soon as possible so that they can make an informed judgement about the merits of continuing to invest in the feeder UCITS or feeder NURS.