

Chapter 4

Investor Relations

4.4 Meetings of Unitholders and service of notices

Application

- 4.4.1 **R** This section applies to an *authorised fund manager*, a *depository* and any other *director* of an *ICVC*.

General meetings

- 4.4.2 **R**
- (1) The *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* may convene a general meeting of *unitholders* at any time.
 - (2) The *unitholders* may request the convening of a general meeting by a requisition which must:
 - (a) state the objects of the meeting;
 - (b) be dated;
 - (c) be signed by *unitholders* who, at that date, are registered as the *unitholders* of *units* representing not less than one-tenth in value (or such lower proportion stated in the *instrument constituting the fund*) of all of the *units* then in *issue*; and
 - (d) be deposited at the head office of the *ICVC* or with the *depository* of an *AUT* or *ACS*.
 - (3) The *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* must on receipt of a requisition that complies with (2), immediately convene a general meeting of the *authorised fund* for a date no later than eight weeks after receipt of the requisition.
 - (4) The advisory committee of a *charity authorised investment fund* may also request the convening of a general meeting of *unitholders* by giving notice in accordance with ■ COLL 14.3.5R.

Class meetings

- 4.4.3 **R** This section applies, unless the context otherwise requires, to *class meetings* by reference to the *units* of the *class* concerned and the *unitholders* and *prices* of such *units*.

Special meaning of Unitholder in COLL 4.4

- 4.4.4 **R** (1) Unless a *unit* in the *authorised fund* is a *participating security*, in this section "*unitholders*" means *unitholders* as at a cut-off date selected

by the *authorised fund manager* which is a reasonable time before notices of the relevant meeting are sent out.

- (2) If any *unit* in the *authorised fund* is a *participating security*, a registered *unitholder* of such a *unit* is entitled to receive a notice of a meeting or a notice of an adjourned meeting under ■ COLL 4.4.5 R (Notice of general meetings), if entered on the *register* at the close of business on a *day* to be determined by the *authorised fund manager*, which must not be more than 21 *days* before the notices of the meeting are sent out.
- (3) For the purposes of (2), in ■ COLL 4.4.6 R (Quorum) to ■ COLL 4.4.11 R (Chairman, adjournments and minutes) "*unitholders*" in relation to those *units* means the *persons* entered on the *register* at a time to be determined by the *authorised fund manager* and stated in the notice of the meeting, which must not be more than 48 hours before the time fixed for the meeting.

Notice of general meetings

4.4.5

R

- (1) Where the *authorised fund manager*, the *depository* or the other *directors* of an *ICVC* decide to convene a general meeting of *unitholders*:
 - (a) each *unitholder* must be given at least 14 *days* written notice, inclusive of the date on which the notice is first served and the day of the meeting; and
 - (b) the notice must specify the place, day and hour of the meeting and the terms of the resolutions to be proposed and a copy of the notice must be sent to the *depository*.
- (2) The accidental omission to give notice to, or the non-receipt of notice by, any *unitholder* does not invalidate the proceedings at any meeting.
- (3) Notice of an adjourned meeting of *unitholders* must be given to each *unitholder*, stating that while two *unitholders* present in person or proxy are required to constitute a quorum at the adjourned meeting, this may be reduced to one in accordance with ■ COLL 4.4.6R (3), should two such *unitholders* not be present after a reasonable time of convening of the meeting.
- (4) Paragraph (1)(a) does not apply to the notice of an adjourned meeting.

Quorum

4.4.6

R

- (1) The quorum required to conduct business at a meeting of *unitholders* is two *unitholders*, present in person or by proxy.
- (2) If after a reasonable time from the time for the start of the meeting, a quorum is not present, the meeting:
 - (a) if convened on the requisition of *unitholders*, must be dissolved; and
 - (b) in any other case, must stand adjourned to:

- (i) a day and time which is seven or more *days* after the day and time of the meeting; and
- (ii) a place to be appointed by the chairman.

(3) If, at an adjourned meeting under (2)(b), a quorum is not present after a reasonable time from the time for the meeting, one *person* entitled to be counted in a quorum present at the meeting shall constitute a quorum.

Resolutions

4.4.7

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- (1) Except where an *extraordinary resolution* is specifically required or permitted, any resolution of *unitholders* is passed by a simple majority of the votes validly cast at a general meeting of *unitholders*.
- (2) In the case of an equality of, or an absence of, votes cast, the chairman is entitled to a casting vote.
- (3) Where a resolution (including an *extraordinary resolution*) is required to conduct business at a meeting of *unitholders* and every *unitholder* is prohibited under ■ COLL 4.4.8R (4) from voting, it shall not be necessary to convene such a meeting and a resolution may, with the prior written agreement of the *depository* to the process, instead be passed with the written consent of *unitholders* representing 50% or more, or for an *extraordinary resolution* 75% or more, of the *units* of the *scheme* in *issue*.

Voting rights

4.4.8

R

- (1) On a show of hands every *unitholder* who is present in person has one vote.
- (2) On a poll:
 - (a) votes may be given either personally or by proxy or in another manner permitted by the *instrument constituting the fund*;
 - (b) the voting rights for each *unit* must be the proportion of the voting rights attached to all of the *units* in *issue* that the *price* of the *unit* bears to the aggregate *price* or *prices* of all of the *units* in *issue*:
 - (i) if any *unit* is a *participating security*, at the time determined under ■ COLL 4.4.4R (2) (Special meaning of Unitholder in ■ COLL 4.4);
 - (ii) otherwise at the date specified in ■ COLL 4.4.4R (1); and
 - (c) a *unitholder* need not use all his votes or cast all his votes in the same way.
- (3) For joint *unitholders*, the vote of the most senior who votes, whether in person or by proxy, must be accepted to the exclusion of the votes of the other joint *unitholders*. For this purpose seniority must be determined by the order in which the names stand in the *register* of *unitholders*.
- (4) No *director* of the *ICVC* or the *authorised fund manager* of an *AUT* or *ACS* can be counted in the quorum of, and no such *director* or the

authorised fund manager of an *AUT* or *ACS* nor any of their *associates* may vote at, any meeting of the *authorised fund*.

- (5) The prohibition in (4) does not apply to any *units* held on behalf of, or jointly with, a *person* who, if himself the registered *unitholder*, would be entitled to vote and from whom the *director*, the *authorised fund manager* of an *AUT* or *ACS* or its *associate* have received voting instructions.
- (6) For the purpose of this section, *units* held, or treated as held, by the *authorised fund manager* or any other *director* of the *ICVC*, must not, except as mentioned in (5), be regarded as being in *issue*.

Right to demand a poll

4.4.9

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- (1) A resolution put to the vote of a general meeting must be determined on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:
 - (a) the chairman;
 - (b) at least two *unitholders*; or
 - (c) the *depository*.
- (2) Unless a poll is demanded in accordance with (1), a declaration by the chairman as to the result of a resolution is conclusive evidence of the fact.

Proxies

4.4.10

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- (1) A *unitholder* may appoint another *person* to attend a general meeting and vote in his place.
- (2) Unless the *instrument constituting the fund* provides otherwise, a *unitholder* may appoint more than one proxy to attend on the same occasion but a proxy may vote only on a poll.
- (3) Every notice calling a meeting of a *scheme* must contain a reasonably prominent statement that a *unitholder* entitled to attend and vote may appoint a proxy.
- (4) For the appointment to be effective, any *document* relating to the appointment of a proxy must not be required to be received by the *ICVC* or any other *person* more than 48 hours before the meeting or adjourned meeting

Chairman, adjournment and minutes

4.4.11

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- (1) A meeting of *unitholders* must have a chairman, nominated:
 - (a) in the case of an *AUT* or *ACS*, by the *depository*;
 - (b) in the case of an *ICVC*, by a *director* other than the *ACD* or an *associate* of the *ACD* or, if no such nomination is made, by the *depository*.

- (2) If the chairman is not present after a reasonable time from the time for the meeting, the *unitholders* present must choose one of them to be chairman.
- (3) The chairman:
 - (a) may, with the consent of any meeting of *unitholders* at which a quorum is present; and
 - (b) must, if so directed by the meeting;

adjourn the meeting from time to time and from place to place.
- (4) Business must not be transacted at any adjourned meeting, except business which might have lawfully been transacted at the original meeting.
- (5) The *authorised fund manager* must ensure that:
 - (a) minutes of all resolutions and proceedings at every meeting of *unitholders* are made and kept; and
 - (b) any minute made in (a) is signed by the chairman of the meeting of *unitholders*.
- (6) Any minute referred to in (5)(b) is conclusive evidence of the matters stated in it.

Notices to unitholders

4.4.12

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- (1) Where this sourcebook requires any notice or *document* to be served upon a *unitholder*, it is duly served :
 - (a) for *units* held by a registered *unitholder*, if it is:
 - (i) sent by post to or left at the *unitholder's* address as appearing in the *register*; or
 - (ii) sent by using an electronic medium in accordance with ■ COLL 4.4.13 R (Other notices).
 - (b) [deleted]
- (2) Any notice or *document* served by post is deemed to have been served on the second *business day* following the *day* on which it is posted.
- (3) Any *document* left at a registered address or delivered other than by post is deemed to have been served on that *day*.

Other notices

4.4.13

R

- (1) Any *document* or notice to be served on or information to be given to, any *person*, including the *FCA* , must be in legible form.
- (2) For the purposes of this *rule*, any form is legible form which:
 - (a) is consistent with the *ICVC's*, the *directors'*, the *authorised fund manager's* or the *depository's* knowledge of how the recipient of the *document* wishes or expects to receive the *document*;

- (b) is capable of being provided in hard copy by the *authorised fund manager*, the *depository* or any other *director* of the *ICVC*;
 - (c) enables the recipient to know or record the time of receipt; and
 - (d) is reasonable in the context.
- (3) (a) In this sourcebook, any requirement that a *document* be signed may be satisfied by an electronic signature or electronic evidence of assent.
- (b) In relation to an *AUT* or *ACS*, where transfer of title to *units* is to be effected on the authority of an *electronic communication*, the *authorised fund manager* must take reasonable steps to ensure that any *electronic communication* purporting to be made by the *unitholder* or his agent is in fact made by that *person*.

References to writing and electronic documents

4.4.14 G In this sourcebook references to writing and the use of electronic media should be construed in accordance with ■ GEN 2.2.14 R (References to writing) and its related *guidance* provisions.

Service of notice Regulations

4.4.15 G The provisions in this section relating to the service and delivery of notices and *documents* both to *unitholders* and to the *FCA* , disapply the provisions of The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) under the power in Regulation 1(6) of those Regulations.