

## Chapter 9

# Recognised schemes

 **9.1 Application and general information****Application**

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- 9.1.1 **R** This chapter applies to *operators of recognised schemes* and to *operators of schemes* making a notification in respect of them under Chapter V of Part XVII of the *Act* (Recognised overseas schemes).

**Purpose**

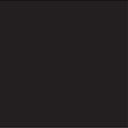
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- 9.1.2 **G** This chapter enables potential *operators of recognised schemes* to know what information and *documents* the *FCA* wish to receive to enable it to consider whether to recognise the *scheme* under the *Act* for *marketing* in the *United Kingdom*.

**General information**

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- 9.1.3 **G** Further information about notifications for recognition is contained in *COLLG*.



## 9.2 Section 264 recognised schemes

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- (1) [deleted]
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  - (3) [deleted]
  - (4) [deleted]

### Marketing of units of an EEA UCITS scheme

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- 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)(c) (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

### Information and documents to be supplied for a section 272 application

#### 9.3.1

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- (1) If the *operator* of a *scheme* makes an application under section 272 of the *Act* (Individually recognised overseas schemes), the application must include the information in paragraph (4).
- (2) The *documents* must be in English or accompanied by a translation in English.
- (3) The *documents* must be certified by the *operator* to be true copies of the originals.
- (4) The *operator* of the *scheme* must provide the following information and *documents* with the application:
  - (a) the name of the *scheme*;
  - (b) the legal form of the *scheme*;
  - (c) the name and address of the *operator*;
  - (d) the address of the place in the *United Kingdom* for service on the *operator* of notices or other *documents*;
  - (e) whether the *operator* intends to market the *scheme* in the *United Kingdom* in a manner which will involve it carrying on a *regulated activity* in the *United Kingdom*;
  - (f) the name and address of any *person* to whom the property subject to the *scheme* is entrusted for safekeeping;
  - (g) the address of the place in the *United Kingdom* where *scheme* facilities (see ■ COLL 9.4) will be maintained;
  - (h) details of the arrangements for the *marketing* of *units* in the *United Kingdom*, namely:
    - (i) the proposed commencement date;
    - (ii) whether the *units* will be sold by or through any employed sales force, *authorised persons*, or unsolicited calls;
  - (i) a copy of the *instrument constituting the fund*;
  - (j) a copy of the *prospectus* or any similar document giving details of the *scheme*;
  - (k) a copy of the latest annual report and any subsequent half-yearly report;

- (l) a copy of any other *document* affecting the rights of *participants* in the *scheme*; and
- (m) (where applicable) a copy of the *key information document* (see ■ COLL 9.3.4G).

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

9.3.2

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

- (1) contains a statement that "Complaints about the operation of the *scheme* may be made to the *FCA*."; and
- (2) states whether or not investors in the *scheme* would be covered by the compensation scheme, and if so, it must state how they are covered and who they would need to contact for further information.

### Preparation and maintenance of prospectus

9.3.3

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- (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 section 272 of the *Act* is managed and authorised in Guernsey, Jersey, or the Isle of Man, the *prospectus* need not comply with the requirements of ■ COLL 4.2.5 R (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

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- (1) The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).
- (2) The requirements of the *PRIIPs Regulation* are directly applicable.
- (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*.

## 9.4 Facilities in the United Kingdom

### General

9.4.1

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- (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 9.4.2 R to ■ COLL 9.4.6 R.
- (2) In this section, a facility is a place of business that complies with ■ COLL 9.4.6 R (Place of facilities).

### Documents

9.4.2

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- (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:
  - (a) the *instrument constituting the fund*;
  - (b) any instrument amending the *instrument constituting the fund*;
  - (c) the latest *prospectus* (which must include the address where the facilities are maintained and details of those facilities);
  - (d) for a section 264 *recognised scheme*, the *EEA key investor information document*; and
  - (e) the latest annual and half-yearly reports.
- (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).
- (2) In relation to notices and *documents* sent by *operators* and *depositories* to and from the *United Kingdom*, ■ COLL 4.4.12 R (Notice to Unitholders) and ■ COLL 4.4.13 R (Other notices) apply.

### Price and redemption

9.4.3

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- (1) The *operator* must maintain facilities in the *United Kingdom* for any *person* where:
  - (a) information in English can be obtained about prices of *units* in the *scheme*; and
  - (b) a *participant* may redeem or arrange for *redemption* of *units* in the *scheme* and obtain payment.

- (2) An *operator* is treated as complying with paragraph (1) if it ensures *participants* may sell their *units* on an investment exchange at a price not significantly different from net asset value; and if so, must inform *participants* of the investment exchange.

#### Bearer certificates and characteristics of units in the scheme

9.4.4

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- (1) The *operator* must maintain facilities in the *United Kingdom* at which the *unitholder* of a *bearer certificate* may obtain free of charge:
- (a) payment of dividends; and
  - (b) details or copies of any notices which have been given or sent to *participants* in the *scheme*.
- (2) The *operator* must state:
- (a) the nature of the right represented by the *units* in the *scheme*; and
  - (b) whether *persons* other than *unitholders* can vote at meetings of *unitholders* and, if so, who those *persons* are.

#### Complaints

9.4.5

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The *operator* must maintain facilities in the *United Kingdom*, at which any *person* who has a complaint to make about the operation of the *scheme* can submit his complaint for transmission to the *operator*.

#### Place of facilities

9.4.6

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- (1) The address of the facilities maintained by the *operator* in accordance with this section and the details of the facilities so maintained must be stated in the *prospectus* of the *scheme*.
- (2) The address of the facilities referred to in (1) must be the address of the *operator's* principal place of business in the *United Kingdom*, or, if there is no such address, such other address in the *United Kingdom* where the *operator* can be contacted.
- (3) [deleted]

