

Chapter 9

Recognised schemes

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

- 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

- 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

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



9.2 Section 264 recognised schemes

9.2.1

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

9.2.2

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Marketing of units of an EEA UCITS scheme

- (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; and

- (l) a copy of any other *document* affecting the rights of *participants* in the *scheme*.

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.

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]

