

Chapter 9

Recognised schemes

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 *recognised scheme* 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 *recognised scheme* must comply with the requirements set out in ■ COLL 4.2 (Pre-sale notifications).
- (2) Where a *recognised scheme* 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* 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*, unless the operator of such a scheme is otherwise exempt from such a requirement under the *PRIIPs Regulation* for the time being.

Annual certificate of compliance

9.3.5

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- (1) An operator of a *scheme* recognised under section 272 of the *Act* must provide a certificate to the *FCA* in writing that:
 - (a) sets out what steps it has taken to inform itself of any changes to the regulatory requirements for the relevant type of comparable authorised *scheme* taking effect during the most recent financial year of the *scheme*; and
 - (b) explains whether, and if so how, any such changes, together with any changes to the *scheme* that have occurred during this period,

may affect the *scheme's* ability to satisfy the requirements referred to in section 272(1)(d) of the *Act*.

- (2) The certificate must be provided to the *FCA* no later than:
 - (a) one *month* following the publication of the *annual report and accounts* of the *scheme*; or
 - (b) if the publication of the *annual report and accounts* of the *scheme* is delayed, one *month* after the last day on which the publication of the *annual report and accounts* of the *scheme* was due.
- (3) The certificate must be signed by an authorised signatory of the *operator*.
- (4) The certificate may apply to multiple *sub-funds* in an *umbrella* that are recognised under section 272 of the *Act*, if the names of each relevant *sub-fund* and of the *umbrella* are clearly stated.
- (5) The certificate must be delivered to the *FCA* by:
 - (a) sending a copy by email addressed to recognisedcis@fca.org.uk, including the subject line: "S.277A Certificate – [insert full name(s) of scheme]"; or
 - (b) by *post* to: Financial Conduct Authority, attn. S.277A Certificates, Fund Authorisations Team, Asset Management Department, Wholesale Supervision, 12 Endeavour Square, London E20 1JN, United Kingdom.

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An operator of a *scheme* recognised under section 272 of the *Act* need not provide a certificate under ■ COLL 9.3.5D if it has already sent the required information to the *FCA* within the last 12 *months* as the result of:

- (1) a requirement relating to an application for recognition of the *scheme* under section 274(2)(c) of the *Act*;
- (2) a direction relating to a proposed alteration of the *scheme* or to a change to the *operator*, *trustee* or *depository* under section 277(5)(b) of the *Act*; or
- (3) a previous certificate being provided under section 277A of the *Act*.

9.3.7

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The *operator* of a *scheme* recognised under section 272 of the *Act* should seek advice from professionals with appropriate qualifications or professional knowledge, such as a qualified solicitor, chartered accountant or compliance consultant, before submitting the certificate to the *FCA* under ■ COLL 9.3.5D.