Powers exercised

A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions:

(1) the following sections of the Financial Services and Markets Act 2000 ("the Act"): 
   
   (a) 138 (General rule-making power);
   (b) 140 (Restriction on managers of authorised unit trust schemes);
   (c) 156 (General supplementary powers);
   (d) 157 (Guidance);
   (e) 242 (Applications for authorisation of unit trust schemes);
   (f) 247 (Trust scheme rules); and
   (g) 248 (Scheme particulars rules); and

(2) regulations 6 (FSA rules) and 12 (Applications for authorisation) of the Open-Ended Investment Companies Regulations (SI 2001/1228).

B. The provisions of or under the Act relevant to the rules and listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

C. This instrument comes into force on 1 April 2004.

Amendments to the Collective Investment Schemes sourcebook (CIS)

D. CIS is amended in accordance with Annex A of this instrument.

Amendments to other FSA manuals and sourcebooks and the Glossary

E. The modules of the FSA Handbook of Rules and Guidance listed in column (1) below are amended in accordance with the relevant annex listed in column 2.
<table>
<thead>
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<th>(1)</th>
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<tr>
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<td>Glossary</td>
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</table>

**Citation**

F. This instrument may be cited as the New Collective Investment Schemes Sourcebook (Consequential Amendments) Instrument 2004.

By order of the Board
18 March 2004
Annex A

Amendment to the CIS Sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

Transitional provisions for CIS

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<tr>
<td></td>
<td>R</td>
<td>R</td>
<td>(1) Subject to (2), in relation to a <em>UCITS management company</em> which became authorised before 13 February 2004, CIS 7.6.1R(2),(4) and (5) and CIS 7.10.4R(1),(5) and (6) have effect as they applied before 12 February 2004.</td>
<td>From 13 February 2004 to 12 February 2007</td>
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Right to elect to comply with COLL

1.1.1A R (1) *CIS does not apply to any relevant party in relation to an authorised fund if the authorised fund manager of such fund with the consent of each of the other relevant parties has elected on behalf of the fund to comply with the rules in COLL instead of CIS, provided the authorised fund manager notifies the FSA in writing of such election and of the date from which such election is to take effect.*

(2) For the purposes of (1) a relevant party in relation to:
(a) any AUT, is its manager and trustee; and
(b) any ICVC, is:
   (i) the ICVC;
   (ii) its ACD;
   (iii) any other directors of the ICVC; and
   (iv) its depositary.

Operators of recognised schemes

1.1.1B  R  CIS 16 (Application and notification) and CIS 17 (Recognised schemes) do not have any effect in relation to an operator of a recognised scheme or to any person seeking recognition in the United Kingdom for such a scheme after 1 April 2004.

3.5.2  R  Table: Contents of the prospectus

3

(15) In the case of a UCITS scheme, information concerning the historical performance of the scheme presented in accordance with COB 3.8.11R (specific non real time financial promotions: past performance).

R  23 ...

(1A) if the authorised fund manager determined that short form reports are to be prepared for the purposes of CIS 10.5.2R (2A)(2), a statement when the short report will be sent to the unit holders.

...

4.4.3  R  (2) ...

(d) if it has reasonable grounds, relating to the circumstances of the person concerned, for refusing to sell units to him the person concerned; and

...
Where there has been no recent trade in the security concerned, or where no reliable price exists, an investment should be valued at a price which, in the authorised fund manager's opinion, reflects a fair and reasonable price for that investment. In such cases, the authorised fund manager should document the reasons for its decision and should be prepared to justify any assumptions made.

Where the authorised fund manager has reasonable grounds to believe that:

(a) no reliable price exists for a security at a valuation point; or
(b) the most recent price available does not reflect the authorised fund manager's best estimate of the value of a security at the valuation point;

he should value the investment at a price which, in his opinion, reflects a fair and reasonable price for that investment (the fair value price).

The circumstances which may give rise to a fair value price being used include:

(a) no recent trade in the security concerned; or
(b) the occurrence of a significant event since the most recent closure of the market where the price of the security is taken.

In (b), a significant event is one that means the most recent price of a security or a basket of securities is materially different to the price that it is reasonably believed would exist at the valuation point had the relevant market been open.

In determining whether to use such a fair value price, the authorised fund manager should include in his consideration:

(a) the type of authorised fund concerned;
(b) the securities involved;
(c) the basis and reliability of the alternative price used; and
(d) the authorised fund manager's policy on the valuation of scheme property as disclosed in the prospectus.
(7) The **authorised fund manager** should document the basis of valuation (including any fair value pricing policy) and, where appropriate, the basis of any methodology and ensure that the procedures are applied consistently and fairly.

(8) Where a **unit price** is determined using properly applied fair value prices in accordance with policies in (7), subsequent information that indicates the **price** should have been different from that calculated will not normally give rise to an instance of incorrect pricing.

... Spread: general ...

5.2.13 R (7) The exposure to any one **counterparty** in an **OTC derivative** transaction must not exceed 5% in value of the **scheme property**. This limit is raised to 10% where the **counterparty** is an **approved bank**.

(8) Not more than 20% in value of the **scheme property** is to consist of **transferable securities or and** money market instruments issued by the same group (as referred to in (2)).

...  

(11) In applying the limit in (3),(4),(5),(6),(7) and (10), not more than 35% in value of the **scheme property** is to consist of any combination of two or more of the following:

(a) **transferable securities** or money market instruments issued by; or

(b) **deposits** made with; or

(c) exposures from **derivatives transactions** made with a single body.

Spread: government and public securities

5.2.14 R (1) This rule (CIS 5.2.14) applies to **government and public securities** ("such securities").

...
Investment in collective investment schemes

5.2.15  R  A scheme may invest in units in a collective investment scheme provided that no more than 30% of the value of that investing scheme is in collective investment schemes which are not UCITS schemes and only if the second scheme is permitted under (1) - (4):

(1)  it is a scheme which:

(a)  complies with the conditions necessary for it to enjoy the rights conferred by the UCITS Directive; or

(b)  is recognised under the provisions of section 270 of the Act (Schemes authorised in designated countries or territories); or

(c)  is authorised as a non-UCITS retail scheme (provided the requirements of article 19(1)(e) of the UCITS Directive are met); or

(d)  is authorised in another EEA State (provided the requirements of article 19(1)(e) of the UCITS Directive are met);

(2)  it is a the second scheme which complies must comply where relevant with CIS 5.2.18R (Investment in other group schemes);

(3)  it is a the second scheme which has must have terms which prohibit more than 10% in value of the scheme property consisting of units in collective investment schemes; and

(4)  for the purposes of this rule (CIS 5.2.15R) and (CIS 5.2. 13R (Spread: general) each sub-fund of an umbrella scheme is to be treated as if it were a separate scheme but no sub-fund of an umbrella scheme may invest in another sub-fund of that umbrella scheme.

Qualifying non-UCITS collective investment schemes

5.2.16  G  (1)  CIS 17.3 gives further detail as to the recognition of a scheme under section 270 of the Act.

(2)  Article 19 of the UCITS Directive sets out the general investment limits. So, a non-UCITS retail scheme, or its equivalent EEA scheme which has the power to invest in gold or immovables would not meet the criteria set in CIS 5.2.15R (1) (e) and (d).
Investment in warrants and nil and partly paid securities

5.2.19 R (1) Where a UCITS scheme invests in a warrant, the exposure created by the exercise of the right conferred by the warrant must not exceed the limits in CIS 5.2.13R (Spread: general) and CIS 5.2.14R (Spread: government and public securities). A warrant (“the proposed warrant”) falls within any power of investment only if, on the assumptions that:

(a) there is no change to the scheme property between the acquisition of the proposed warrant and its exercise; and

(b) the right conferred by the proposed warrant and all other warrants forming part of the scheme property at the time of the acquisition of the proposed warrant will be exercised (whether or not it is intended that they will be);

it is reasonably foreseeable that the right conferred by the proposed warrant could be exercised by the authorised fund without contravening the rules in this chapter.

(2) …

(3) A warrant which is an investment falling within article 80 of the Regulated Activities Order (Certificates representing certain securities) and which is akin to an investment falling within article 79 (Instruments giving entitlement to investments) of the Regulated Activities Order may not be included in the scheme property unless it is listed on an eligible securities market.

Investment in money market instruments

5.2.20 R A UCITS scheme may invest in money market instruments which are normally dealt in on the money market, are liquid and whose value can be accurately determined at any time, provided:

…

5.2.22 R (6) Any forward transaction must be with an approved counterparty counterparty under CIS 5.2.25R(2) (OTC transactions in derivatives).

…
Risk management: derivatives

5.2.26  R  (1)  An **authorised fund manager** must use a risk management process enabling it to monitor and measure as frequently as appropriate the risk of a **scheme's derivatives and forwards** positions and their contribution to the overall risk profile of the **scheme**.

(2)  The following details of the risk management process must be notified by the **authorised fund manager** to the **FSA** in advance of the use of the process as required by (1) along with advance notification of any material alteration to such details:

(a)  the methods for estimating risks in **derivative and forward** transactions; and

(b)  the types of **derivatives**, **derivatives** and **forwards** to be used within the **scheme** together with their underlying risks and any relevant quantitative limits.

...

5.3.3..  R  (5)  The **global total** exposure relating to **derivatives** held in a **UCITS scheme** may not exceed the net value of the **scheme property**.

...

Permitted stock lending

5.4.4  R  (1)  An **ICVC**, or the depositary at the request of the **ICVC**, or a the trustee at the request of the manager, may enter into a stock lending arrangement of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992 (without extension by section 263C), but only if:

(a)  all the terms of the agreement under which securities are to be reacquired by the depositary for the account of the **ICVC** or by the trustee, are in a form which is acceptable to the depositary or to the trustee and are in accordance with good market practice;

(b)  the **counterparty** is an authorised person or a person authorised by a Home State regulator; and

(c)  collateral is obtained to secure the obligation of the **counterparty** under the terms referred to in (a) and the collateral is:
(2) The counterparty for the purpose of (1) is the person who is obliged under the agreement referred to in (1)(a) to transfer to the depositary the securities transferred by the depositary under the stock lending arrangement or securities of the same kind.

Stock lending: treatment of collateral

5.4.5 Where a stock lending arrangement is entered into, the scheme property remains unchanged in terms of value: the securities transferred cease to be part of the scheme property, but there is obtained in return an obligation on the part of the counterparty to transfer back equivalent securities. The depositary will also receive collateral to set against the risk of default in transfer, and that collateral is equally irrelevant to the valuation of the scheme property (because it is transferred against an obligation of equivalent value by way of re-transfer). CIS 5.4.6R accordingly makes provision for the treatment of the collateral in that context.

Publication of reports

10.5.2 (2) (a) The authorised fund manager must, subject to (2A) and (3) provide free of charge:

(i) a copy of each annual report and each half-yearly report to each holder (or to the first named of joint holders) entered in or entitled to be entered in the register at the close of business on the last day of the relevant accounting period or half-yearly accounting period; and

(ii) a copy of the report to each holder of bearer units at his request.

(b) A report relating to an umbrella scheme to be provided under (a)(i) or (ii) need not contain an aggregation of the accounts relating to each sub-fund, but such information must be sent, free of charge, to any holder who requests it
(2A) (1) Notwithstanding (2), the authorised fund manager may comply with COLL 4.5.13R (Provision of short report) instead of (2), provided that any short report prepared by the authorised fund manager for this purpose:

(a) meets the requirements of COLL 4.5.3R (1) and (2) (Preparation of long and short reports); and

(b) contains the information required by COLL 4.5.5R (Contents of a short report).

(2) In preparing a short report for the purposes of (1), the authorised fund manager should construe references to a long report in COLL 4.5.5 R(1)(f) and (5) and in COLL 4.5.13R (3) as the annual report referred to in CIS 10.3.3R (Annual reports) or, as the case may be, the half-yearly report in CIS 10.3.4 (Half-yearly reports).

Guidance on short report contents

10.5.2A G COLL 4.5.6G which provides guidance on sufficient and significant information which should be contained in short reports, applies in relation to short reports prepared for the purposes of CIS 10.5.2R (2A). References in that guidance to a fundamental change should be regarded as a change requiring unitholder approval by meeting during the period. Similarly, references to a significant change should be regarded as a change in respect of which prior written notice of the change should be given to unitholders by the authorised fund manager.

(3) …

15.4.3 R (2) …

(d) if it has reasonable grounds, relating to the circumstances of the person concerned, for refusing to sell units to him—the person concerned; and
Circumstances may arise where the chosen method may not provide a reliable basis for valuation. Guidance on such instances is provided at CIS 4.8.4G(4) – (8). This could happen, for example, where there has been no recent trade in the security concerned or where no reliable price exists. In such cases, the manager should exercise judgement to estimate a reasonable price at which the security could be bought or sold in the most appropriate market, and should document the reasons for its decision. Additionally, where the manager imputes a ‘spread’ in order to arrive at an estimated buying or selling price – for example, in circumstances where there are no buy or sell orders on the order book, it should be able to justify any assumptions made.

Restrictions of business of managers of UCITS schemes for UCITS management companies

A firm which is the authorised fund manager of a UCITS scheme must not engage in any activity other than:

(1) acting as manager of:
   (a) authorised fund manager of an authorised fund; or
   (b) an operator of any other collective investment scheme for which the firm is subject to prudential supervision and under which the contributions of the participants and the profits or income out of which payments are to be made to them are pooled; or

(2) acting as the director of an ICVC; or

(3) activities for the purposes of or in connection with those in (1) or

(2):

(3) collective portfolio management, including without limitation:
   (a) investment management;
   (b) administration:
      (i) legal and fund management accounting services;
      (ii) customer enquiries;
      (iii) valuation and pricing (including tax returns);
      (iv) regulatory compliance monitoring;
(v) maintenance of unitholder register;
(vi) distribution of income;
(vii) unit issues and redemptions;
(viii) contract settlements (including certificate dispatch); and
(ix) record keeping; and

c) marketing;

(4) managing investments where the relevant portfolio includes one or more ISD instruments;

(5) advising on investments where the firm has permission in respect of (4):
   (a) the firm has a permission for the activity in (4); and
   (b) each of the instruments is an ISD instrument; and

(6) safekeeping and administration of collective investment scheme units where the firm has a permission for the activity in respect of (4).

16.5.2 G (1) Examples of the connected activities referred to in CIS 16.5.1R(3)(2) include management of group plans PEPs, ISAs and stakeholder pensions, as….

(2) The restrictions of business imposed by CIS 16.5.1R reflect the position under Article 5 of the UCITS Directive. In accordance with recital (7) of the amending UCITS Management Directive (2001/107/EC) the activities referred to at CIS 16.5.1R (3)(a) to (e) may be performed on behalf of EEA UCITS management companies.

CIS Sourcebook
Schedule 2- Notification requirements

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<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
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<td>Election to comply with COLL</td>
<td>Details and date of occurrence</td>
<td>When election takes effect</td>
<td>Before election takes effect</td>
</tr>
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</table>
Annex B

Amendment to the Senior Management Arrangements, Systems and Controls (SYSC)

In this Annex underlining indicates new text and striking through indicates deleted text.

3.2.8  R  (2)  In SYSC 3.2.8 R (1) "compliance" means compliance with the rules in:

(a)  …

(b)  \textit{COLL} (New Collective Investment Schemes) and \textit{CIS} (Collective Investment Schemes); and

…
Annex C

Amendment to the General Provisions (GEN)

In this Annex underlining indicates new text and striking through indicates deleted text.

1.1.1  For a UCITS qualifier, this chapter applies only with respect to the 
communication and approval of financial promotions to which COB 3 
(Financial promotion) applies and to the maintenance of facilities to which 
COLL 9.4 (Facilities in the United Kingdom) and CIS 17.5 (Facilities in 
the United Kingdom) apply.

3.1.2  GEN 3.2.1 R and GEN 3.3.1 R do not apply in respect of any fee 
payable under AUTH 4 (Authorisation fees), REC 7 (Recognised 
| bodies fees), SUP 6.3.22 R (Application fee for variation of permission), 
or COLL 10 (Fees), or CIS 18 (Collective investment schemes fees) on the 
making of an application or a notification.
Annex D

Amendment to the Interim Prudential sourcebook for Insurers IPRU(INS)

In this Annex underlining indicates new text and striking through indicates deleted text.

GUIDANCE NOTE 4.4
LINKED CONTRACTS

5.7  All Most authorised or recognised unit trusts fall under one or other of the criteria of paragraph 5.5 above.
Annex E

Amendment to the Interim Prudential sourcebook for Investment Businesses
IPRU(INV)

In this Annex underlining indicates new text and striking through indicates deleted text.

APPENDIX 1 (INTERPRETATION)

GLOSSARY OF TERMS FOR CHAPTER 5 (FORMER IMRO FIRMS)

authorised corporate director means the director of an ICVC who is the authorised corporate director of the ICVC in accordance with COLL 6.5.3R (Appointment of an ACD) or, as the case may be, CIS 7.2.1R (The directors).

APPENDIX 13 (1)
Defined terms for Chapter 13

authorised corporate director the director of an ICVC who is the authorised corporate director of the ICVC in accordance with COLL 6.5.4G (ICVCs) 3R (Appointment of an ACD) or, as the case may be, CIS 7.2.1R (The directors).

(c) (except in COLL and CIS) (in relation to any other investment) issuing or creating the investment or granting the rights or interests of which it consists.
Annex F

Amendments to the Conduct of Business sourcebook (COB)

In this Annex underlining indicates new text and striking through indicates deleted text.

3.11 Unregulated collective investment schemes and qualified investor schemes

3.11 Introduction Unregulated collective investment schemes

Promotion of qualified investor schemes

3.11.6 R A firm may communicate or approve an invitation or inducement to participate in a qualified investor scheme only if:

(a) the communication falls within COB 3 Ann 5; or

(b) the communication is exempt under the Financial Promotion Order (see COB 3 Ann1).

3.11.7 G COLL 8 provides for a type of authorised fund (qualified investor scheme) which is intended for particular non-retail investors. COB 3.11.6R restricts the promotion of such schemes.

COB 3 Ann 5 Permitted promotion of unregulated collective investment schemes and qualified investor schemes (R)

1 Table

1. This annex forms part of COB 3.11.2R and COB 3.11.6R.

... 

2 Table Permitted promotion of unregulated collective investment schemes and qualified investor schemes

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<td>(1) a person who is already a participant in an unregulated collective investment scheme or a qualified investor scheme;</td>
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<td>(2) a person who has been, in the last 30 months, a participant in an unregulated collective investment scheme or a qualified investor scheme.</td>
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Annex G

Amendments to the Insurance: Conduct of Business sourcebook (ICOB)

In this Annex underlining indicates new text and striking through indicates deleted text.

**ICOB 1: Application and purpose**

**Annex 2G**

**Summary of Handbook provisions for insurance intermediaries**

... 3 Table

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<td>Collective Investment Schemes sourcebooks, <strong>COLL</strong> and <strong>CIS</strong></td>
<td>Applies <strong>Apply</strong> to an insurance intermediary doing (1) or (2) where it is also an operator or a depositary of an <strong>AUT</strong>, <strong>ICVC</strong> or certain other collective investment schemes.</td>
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Annex H

Amendments to the Authorisation manual (AUTH)

In this Annex underlining indicates new text and striking through indicates deleted text.

2.7.12 G The regulated activities carried on in relation to a collective investment scheme generally are the establishing, operating or winding up a collective investment scheme. Acting as the depositary and acting as sole director of an open-ended investment company are also separate regulated activities. In all these cases, the activities are regulated where the schemes themselves are authorised schemes for the purposes of the UK product regulation regime under Part XVII of the Act (Collective investment schemes) as well as where the schemes are unregulated schemes. The process for applying for authorisation of a collective investment scheme is described in COLL 2 (Authorised fund applications) and CIS 16 (Application and notification).

... 

3.17.1 G An applicant seeking to establish a collective investment scheme should consult COLL and CIS for detailed requirements and guidance. Applicants should note that until 12 February 2007 they may elect to comply with COLL or CIS, although qualified investor schemes have to comply with COLL.

3.17.2 G Applicants seeking to establish a collective investment scheme or to act as manager of a regulated collective investment scheme should note the rules in COLL 6.4.9 (Plan registers) and CIS 6.5 (Plan registers), which implements article 6 of the UCITS Directive and restrict the activities of a manager of an authorised unit trust which is a UCITS scheme.

3.17.3 G An applicant which wishes to act as manager of an authorised unit trust which is a UCITS scheme a UCITS management company should note the restriction on the activities it may engage in (see COLL 6.9.9R (Restrictions of business of UCITS management companies) and CIS 16.5 (Restrictions of business of managers of UCITS schemes UCITS management companies).

3.17.4 G A firm which is subject to the rule in COLL 6.9.9R or CIS 6.5 may, however, carry on ‘connected activities’ referred to in COLL 6.9.10G and CIS 6.5, ...

... 

3.20.3 G (2) COLLG 2 and CIS 2.3.4G gives guidance when an operator of a UCITS scheme wishes to market its scheme in another EEA State.

...
3.22.3 G  The limited *partnership* may be set up to invest the funds of the *partners*, for example, in the way of a venture capital fund. If so, it will usually be a *collective investment scheme*. The partnership will not require authorisation simply for being a *collective investment scheme* as this is not a *regulated activity*. It will also often be the case that the partnership, in investing its assets, will be excluded from the *regulated activity* of dealing in investments as *principal* (see AUTH 2.8.4G (Dealing in investments as principal)). However, it is likely that the general *partner* will require *permission* from the FSA to *establish*, *operate* or *wind up* a *collective investment scheme* (see AUTH 3.17 (Specific obligations: applicants seeking to establish a collective investment scheme or to act as manager of a regulated collective investment scheme) and *COLL and CIS*). If the general *partner* delegates responsibility for operating a limited *partnership* that is a *collective investment scheme* to another *person* on behalf of the *partnership*, that other *person* will require *authorisation* from the FSA (whether or not the general *partner* also requires *authorisation*).

5.3.16 G A *UCITS qualifier* should refer to *COLLG* or to the following sections of *COLL and CIS* for requirements for recognised schemes:

(1) *COLL 9.2.1G and CIS 16.1.8G* for *guidance* on notifications;

(2) *COLL 9.2.1G and CIS 17.2* for *guidance* on information and documentation requirements; and

(3) *COLL 9.4 and CIS 17.4* which includes *guidance* on what facilities need to be maintained.

AUTH 5: Qualifying for authorisation under the Act

…

2 Table G

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…
The only kind of body corporate of an open-ended kind that may currently be formed under the law of the United Kingdom is one that is authorised by the FSA. A person intending to form an open-ended body corporate that has its head office in Great Britain should refer to the Open-ended Investment Companies Regulations 2001 (SI 2001/1228). Bodies corporate formed under these Regulations are referred to in the Handbook as investment companies with variable capital (or ‘ICVCs’). COLL 2 (Authorised fund applications) and CIS 16 (Application and notification) contains rules and guidance on forming such bodies corporate. The Northern Ireland Assembly was in September 2002 considering a Bill to enable the establishment of open-ended bodies corporate whose head office is in Northern Ireland.

Open-ended investment companies constituted in other EEA States which are seeking to exercise rights conferred by the UCITS Directive should refer to COLL 9 (Recognised schemes) and CIS 17 (Recognised Schemes) for guidance on the requirements of section 264 of the Act (Schemes constituted in other EEA States).

Collective investment schemes that are recognised schemes (see COLL 9 (Recognised schemes) and CIS 17 (Recognised schemes)).
Annex I

Amendments to the Supervision manual (SUP)

In this Annex underlining indicates new text and striking through indicates deleted text.

1.2.2 For a firm which undertakes business internationally (or is part of a group which does), the FSA will have regard to the context in which it operates, including the nature and scope of the regulation to which it is subject in jurisdictions other than the United Kingdom. For a firm with its head office outside the United Kingdom, the regulation in the jurisdiction where the head office is located will be particularly relevant. As part of its supervision of such a firm, the FSA will usually seek to cooperate with relevant overseas regulators, including exchanging information on the firm. Different arrangements apply for an incoming EEA firm, an incoming Treaty firm and a UCITS qualifier. The arrangements applying for an incoming EEA firm and an incoming Treaty firm are addressed in SYSC App1. For UCITS qualifiers see also COLLG, and CIS 2.3, CIS 16, and CIS 17.

...  

6.1.2 If appropriate, a firm which is the manager of a collective investment scheme should also refer to COLL 7 and CIS 14 for guidance on the termination of ICVCs and AUTs and on winding up schemes that are not commercially viable.

...  

8.1.1 (2) person, as respects a particular AUT or ICVC, who wishes to apply for, or consent to, or has been given a modification of or waiver of the rules in COLL or, as the case may be, CIS.

...  

8.2.3 Section 250 of the Act and regulation 7 of the OEIC Regulations allow the FSA to waive the application of certain rules in COLL and CIS to:

...  

8.2.7 Table Rules which can be waived (see SUP 8.2.6G)

<table>
<thead>
<tr>
<th>Rules</th>
<th>Section of the Act or other Provision under which rules are made</th>
<th>Chapters of the Handbook where such rules appear (Note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Authorised unit trust scheme rules</td>
<td>Section 247</td>
<td>COLL and CIS</td>
</tr>
<tr>
<td>Authorised unit trust scheme particulars rules</td>
<td>Section 248</td>
<td>COLL and CIS</td>
</tr>
<tr>
<td>Investment company with variable capital rules</td>
<td>Regulation 6 of the OEIC Regulations</td>
<td>COLL and CIS</td>
</tr>
</tbody>
</table>
8.6.4 G In making waiver applications under section 250 of the Act or regulation 7 of the OEIC Regulations, SUP 8.6.2G(2) should be read in application to rules in COLL or CIS as if the word "commercial" were omitted.

10.7.10 G Compliance in SYSC 3.2.8R means compliance with the rules in COB and COLL or CIS. The FSA anticipates that some firms will include oversight of compliance with PRIN, MAR, and other requirements and standards, within its compliance function. These other responsibilities would not, however, be brought within the compliance oversight function (see also SUP 10.4.3G).

13.1.3 G the marketing of a UCITS scheme by its operator in another EEA State under the UCITS Directive (see COLLG 2.1.8 and CIS 2.3.4G).

14.1.2 G a UCITS qualifier that is an authorised person under Schedule 5 to the Act; a UCITS qualifier should, however, refer to COLL 9.2.1G and CIS for full details of applicable rules and guidance.

14.6.11 G Section 36 of the Act states that a UCITS qualifier may ask the FSA to give a direction cancelling its authorisation under paragraph 1(1) of Schedule 5 to the Act. UCITS qualifiers should also refer to COLLG 3.1.11 and CIS 17.4.8G (Revocation of recognition: schemes recognised under section 264 of the Act).

15.8.7 G A UCITS management company which delegates any of its functions to a third party must, as well as complying with SUP 15.8.6R, comply with the requirements in COLL G 6.6.15R(2), CIS 7.6.1R(2) or CIS 7.10.4R(1) as appropriate.

16.6.8 R (1) (a) (ii) was not corrected in accordance with the FSA’s guidance as set out in COLL 6.2.12G or CIS App as the case may be;

(b) price units in the AUT in accordance with COLL 6.2 or CIS 4 as the case may be for single-priced AUTs and CIS 15 for dual-priced AUTs, where the pricing error was:

(2) (a) (ii) was not corrected in accordance with the FSA’s guidance as set out in COLL 6.2.12G or CIS App as the case may be;

(b) price shares in the ICVC in accordance with the provisions of COLL 6.3 or CIS 4 for ICVCs as the case may be, where the pricing error was:

SUP 16 Ann 12G: Reports from trustees of AUTs and depositaries of ICVCs (see SUP 16.6.9G)
(4) A firm should refer to COLL 6, and CIS 4, 7, 15 and Appendix CIS or COLL 6.2.12G (Box management errors guidance) before completing this report.

2. …

(4) A firm should refer to COLL 6 and CIS 4, 7 and Appendix CIS or COLL 6.2.12G before completing this report.

SUP Appendix 1

1.3.1 G Table

<table>
<thead>
<tr>
<th>Prudential categories (Note 1)</th>
<th>Applicable prudential requirements (Note 2)</th>
<th>Prudential sub sub-categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td>None, but see COLL and CIS</td>
<td></td>
</tr>
<tr>
<td>ICVC*</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Schedule 2

Notification requirements

2 Table

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUP 16.6.6R</td>
<td>Reporting – compliance reports – trustee of an AUT</td>
<td>… (a)… (ii) was not corrected in accordance with the FSA’s guidance as set out in COLL 6.2.12G and CIS App; (b) price units in the AUT in accordance with COLL 6 and CIS 4 for</td>
<td>…</td>
<td>…</td>
</tr>
</tbody>
</table>
| **SUP 16.6.6R** | Reporting – compliance reports – depositary of an *ICVC* | *

single–priced *AUTs* and *CIS* 15 for *dual–priced AUTs*, where the pricing error was:

…

(a)…

(i)…

(ii) was not corrected in accordance with the *FSAs guidance* as set out in *COLL 6.2.12G* and *CIS App*;

(b) price shares in the *ICVC* in accordance with *COLL 6* and *CIS 4* for *ICVCs*, for where the pricing error was:

… |
Annex J

Amendments to the Enforcement manual (ENF)

In this Annex underlining indicates new text and striking through indicates deleted text.

17.3.2

... G

(1) the duties imposed by rules made under section 340(3) of the Act (Appointment) contained in SUP 3 (Auditors) and SUP 4 (Actuaries) and, in the case of firms which are ICVCs, contained in COLL 4 (Investor relations) and COL 7 (Suspension of dealings and termination of authorised funds), CIS 10 (Report and accounts) and CIS 14 (Termination of authorised funds);

17.3.3

Under section 249 of the Act (Disqualification of auditor for breach of trust scheme rules) if it appears to the FSA that an auditor has failed to comply with the duties imposed on him by trust scheme rules it may disqualify him from being the auditor for any AUT or ICVC. These duties are set out in COLL 4 (Investor relations), COLL 7 (Suspension of dealings and termination of authorised funds), CIS 10 (Report and accounts), and CIS 14 (Termination of authorised funds).

17.4.4

... G

(1) the nature and seriousness of any breach of rules and the effect of that breach: the rules are set out in SUP 3 (Auditors) and SUP 4 (Actuaries), and in the case of firms which are ICVCs, in COLL 4 (Investor relations), COLL 7 (Suspension of dealings and termination of authorised funds), CIS 10 (Report and accounts), and CIS 14 (Termination of authorised funds). The FSA will regard as particularly serious any breach of rules which has resulted in, or is likely to result in, loss to consumers or has resulted in, or is likely to result in, damage to confidence in the financial markets;

17.4.5

... G

(1) the effect of the auditor’s breach of a duty imposed by trust scheme rules: the FSA will regard as particularly serious a breach of a duty imposed by trust scheme rules (set out in COLL 4 (Investor relations), COLL 7 (Suspension of dealings and termination of authorised funds), CIS 10 (Report and accounts), and CIS 14 (Termination of authorised funds)) which has resulted in, or is likely to result in, loss to consumers or has resulted in, or is likely to result in, damage to the integrity of the financial markets;
Annex K

Amendments to the Decision Making manual (DEC)

In this Annex underlining indicates new text and striking through indicates deleted text.

1.2.5 Events leading to the giving of a statutory notice are covered in AUTH, SUP, ENF and COLL or CIS. DEC 2Ann1G and DEC 3Ann1G list the relevant references.

DEC 2: Statutory notice procedure: Warning notice and decision notice procedure

Table List of warning notices and decision notices under the Act (other than Part VI) and certain other enactments

<table>
<thead>
<tr>
<th>Section of the Act</th>
<th>Description</th>
<th>Handbook reference</th>
<th>Decision maker</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>245(1)/(2)</td>
<td>when the FSA is proposing/deciding to refuse an application for an authorisation order declaring a unit trust scheme to be an AUT</td>
<td>COLL 2 and CIS 16</td>
<td>RDC/executive procedures (Note 2)</td>
</tr>
<tr>
<td>252(1)/(4)</td>
<td>when the FSA is proposing/deciding to refuse approval of a proposal to replace the trustee or manager of an AUT</td>
<td>COLL 2 and CIS 16</td>
<td>Executive procedures</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>264(2)/265(4)</td>
<td>when the FSA is notifying/deciding not to withdraw a notice, to the operator and relevant EEA State authorities, that the way in which a collective investment scheme constituted in another EEA State intends to invite persons in the United Kingdom to participate in the scheme does not comply with UK law</td>
<td>COLL 9 and CIS 16</td>
<td>Executive procedures</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>271(1)/(3)</td>
<td>when the FSA is proposing/deciding to refuse approval of a collective investment scheme as an authorised scheme under section 270</td>
<td>COLL 9 and CIS 16</td>
<td>Executive procedures</td>
</tr>
<tr>
<td>276(1)/(2)</td>
<td>when the FSA is proposing/deciding to refuse an application for an order declaring a collective investment scheme to be an authorised scheme under section 272</td>
<td>COLL 9 and CIS 16</td>
<td>Executive procedures</td>
</tr>
<tr>
<td>OEIC Regulations reference</td>
<td>Description</td>
<td>Handbook reference</td>
<td>Decision maker</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>--------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Regulation 16(1)/(2)</td>
<td>when the <em>FSA</em> is proposing/deciding to refuse an application for an <em>authorisation order</em> in respect of a proposed <em>ICVC</em></td>
<td><strong>COLL 2</strong> and <strong>CIS 16</strong></td>
<td><em>RDC / executive procedures</em></td>
</tr>
<tr>
<td>Regulation 22(1)/(2)/(4)/(5)</td>
<td>when the <em>FSA</em> is proposing/deciding to refuse approval of (or, having given <em>a warning notice</em>, deciding to approve (Note 4)) a proposal to replace the <em>depositary</em> or director of an <em>ICVC</em>, or any other proposal/decision falling within regulation 21</td>
<td><strong>COLL 2</strong> and <strong>CIS 16</strong></td>
<td>Executive procedures</td>
</tr>
</tbody>
</table>
Annex L

Amendments to the Credit Unions sourcebook (CRED)

In this Annex underlining indicates new text and striking through indicates deleted text.

CRED Appendix 1

Contents of the Handbook

1.1.1 Table

<table>
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<th>Specialist sourcebook</th>
<th>Sourcebook or manual</th>
<th>Reference code</th>
</tr>
</thead>
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<td>CIS</td>
</tr>
<tr>
<td></td>
<td>New Collective Investment Scheme</td>
<td>COLL</td>
</tr>
<tr>
<td></td>
<td>sourcebook</td>
<td></td>
</tr>
</tbody>
</table>

...
Annex M

Amendments to the Electronic Money sourcebook (ELM)

In this Annex underlining indicates new text and striking through indicates deleted text.

1.5.2 Table Application of other parts of the Handbook to ELMIs

<table>
<thead>
<tr>
<th>Block</th>
<th>Module</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Block 5 (Specialist sourcebooks other than ELM)</td>
<td>Credit unions <em>(CRED)</em>, Professional firms, <em>(PROF)</em>, Lloyd’s <em>(LLD)</em>, Collective Investment Schemes <em>(CIS)</em> or <em>COLL</em> and Recognised Clearing Houses <em>(REC)</em></td>
<td>These sourcebooks do not apply to an <em>ELMI</em>.</td>
</tr>
</tbody>
</table>
Annex N

Changes to the Glossary of definitions

In this Annex underlining indicates new text and striking through indicates deleted text.

**accounting reference date**

(1) (except in COLL and CIS):

... 

(2) (in COLL and CIS): the date stated in the most recently published prospectus as the date on which the annual accounting period of the authorised fund is to end in each year, the date on which the annual accounting period of an authorised fund ends.

**accrual interval**

(in COLL and CIS) (in relation to an authorised fund manager's periodic charge) the interval specified in the trust deed instrument constituting the scheme over which the periodic charge accrues.

... 

**affected person**

(in COLL and CIS)

(a) ...... 

(vi) the auditor of the scheme;

(b)........ 

(iv) any associate of any person in

(b)(i), (ii) or (iii);

(v) the auditor of the scheme.

... 

**annual accounting period**

(in CIS) a period determined in accordance with CIS 9.2.1R (Accounting period);

(in COLL) the 12 month period stipulated in the prospectus which ends on the accounting reference date.

...
appropriate valuer (in COLL and CIS) a person who complies with the requirements of COLL 5.6.18R(7) (Investment in property), COLL 8.4.11R(4) (Investment in property) or, as the case may be, CIS 5A.8.5R(7) (Approved immovables).

... (in COLL and CIS and CIS) a derivative which is traded or dealt in on an eligible derivatives market.

approved mortgage (in COLL and CIS) a mortgage:

approved security (1) (in COLL and CIS)...

authorised corporate director the director of an ICVC who is the authorised corporate director of the ICVC in accordance with COLL 6.5.3R (Appointment of an ACD) or, as the case may be, CIS 7.2.1R (The directors).

base currency (1) (in COLL and CIS)...

bearer certificate (in COLL and CIS) ...

cancellation (in COLL and CIS) ....

capital account (in COLL and CIS) ...

capital property (in COLL and CIS) …

…

class (2) (in COLL and CIS)

…

class meeting (in COLL and CIS) …

…

close out (in COLL, CIS and COB)

COLL the New Collective Investment Schemes sourcebook

collateral (1) (in COLL and CIS)…

…

COLLG the Collective Investment Scheme Information Guide

…

currency class share CIS 2.4.5R(1) (Currency class shares: requirements)

…

currency class unit (in COLL) a class of unit denominated in a currency that is not the base currency of the authorised fund, or, if permitted, by COLL 3.3.4R(1) (Currency class units: requirements).

…

dealing day (in CIS) the period in each business day (or in each other day when the ACD or operator is open for business) during which the ACD or operator keeps its premises or any of them open to the public or otherwise publicly available for business of any kind.

(in COLL and CIS) the period in a business day (in accordance with the provisions of the prospectus) during which the ACD or the operator is open for business.

…

dealing period (in COLL and CIS) …

…
dilution  (in COLL and CIS) …

dilution adjustment  an adjustment to the price of a unit determined by the ACD, or the manager of a single-priced AUT, under COLL 6.3.8R (Dilution) or, as the case may be, CIS 4.6.4R (Dilution adjustment) for the purpose of reducing dilution.

…

director  (1) (except in COLL and CIS) …

…

(2) (in COLL and CIS) …

…

distribution account  (in COLL and CIS) the account to which the income property of an authorised fund must be transferred as at the end of each annual accounting period under COLL 6.8.3R (Income allocation and distribution), COLL 8.5.15R (Income) or, as the case may be, CIS 9.2.3R (Annual allocation of income).

…

eligible  (in COLL and CIS) (in relation to a securities or a derivatives market) a market that satisfies the requirements in COLL 5.2.10R (Eligible markets: requirements), CIS 5.2.12R or CIS 5A.3.3R (Eligible markets: requirements) in relation to schemes falling under COLL 5, CIS 5 or CIS 5A respectively.

…

eligible institution  (in COLL and CIS) …

…

extraordinary resolution  (in COLL and CIS) …

…

geared scheme  a regulated collective investment scheme where the policies which the operator adopts or proposes to adopt mean that as a result of investment in warrants or derivatives, or through borrowing that is not temporary in nature, movements in prices of units are likely to be amplified significantly.
half-yearly accounting period  (in  COLL and CIS) a period determined in accordance with CIS 9.2.1R(6) (Accounting period) or, as the case may be  COLL 6.8.2R(2) (Accounting periods).

income account  (in  COLL and CIS) …

initial margin  (1) (in  COLL and CIS) …

initial offer  (in  COLL and CIS) an offer for sale of units in an authorised fund or in a sub-fund (otherwise than in accordance with arrangements of the type described in  COLL 5.5.9R(3)(b)(iii) (Guarantees and indemnities) or, as the case may be, CIS 5.15.8R(3)(b)(iii) or (c) (Guarantees and indemnities)), where all or part of the consideration paid for the account of the authorised fund for the units is to be used to acquire the initial scheme property of the authorised fund or the initial scheme property attributable to the sub-fund.

initial price  (in  COLL and CIS)

(a)  (in relation to a share of an ICVC or a unit in a single-priced AUT) the price to be paid for a unit of any class during the period of the initial offer under  COLL 6.2.3R (Initial offers) or, as the case may be, CIS 4.2.4R(1) (Issue of units: initial offer);

interim accounting period  (in  COLL and CIS) …

ISD instrument  (in accordance with Schedule B of the Annex to the ISD) any of the following investments:

(a)  transferable securities;
(b)  units in collective investment undertakings;
(c)  money-market instruments;
(d) financial-futures contracts, including equivalent cash-settled instruments;
(e) forward interest-rate agreements
(f) interest-rate, currency and equity swaps; and
(g) options to acquire or dispose of any instruments falling within (a) to (f), including equivalent cash-settled instruments and options on currency and on interest rates.

... large deal

(in CIS) ...

(in COLL) a transaction (or series of transactions) in one dealing period by any person to buy, sell or exchange units in an authorised fund, of any value as set out in the prospectus, for the purposes of:
(a) an SDRT provision;
(b) a dilution levy; or
(c) a dilution adjustment.

... limited redemption arrangements

the arrangements operated by an authorised fund manager for the redemption of units in an authorised fund where the authorised fund manager holds himself out to redeem units in that scheme less frequently than twice in a calendar month in accordance with COLL 6.2.19R (Limited redemption).

... margin

(in COLL and CIS) ...

... margined contract

(in COLL and CIS) ...

... marketing

(in COLL and CIS) ...

... non-UCITS retail scheme

an authorised fund which is neither a UCITS scheme or a qualified investor scheme.
plan investor

a person entered in the plan register under COLL 6.4.9R (Plan registers) or, as the case may be, CIS 6.5.4R (Requirement).

plan register

(1) …

(2) (in relation to an AUT) a sub-register to the register, which sub-register records persons who subscribe to a group plan and for whom units in the AUT are held for the purposes of the plan by the plan manager or a nominee (other than any sub-register that has not been established and maintained in accordance with COLL 6.4.4R (Register: general requirements and contents) or, as the case may be, CIS 6.5.4R (Requirement) or for the establishment of which no payments are to be made out of the scheme property).

precious metals

(in COLL) gold, silver or platinum.

price

(in relation to a unit in an ICVC or a single-priced AUT) the price of the unit calculated in accordance with COLL 6.3 (Valuation and pricing) or, as the case may be, CIS 4 (Single pricing and dealing).

prospectus

(in relation to a collective investment scheme) a document containing information about the scheme and complying with the requirements in COLL 4.2.5R (Table: contents of the prospectus), COLL 8.3.4R (Table: contents of qualified investor scheme prospectus); COLL 9.3.2R (Additional information required in the prospectus for an application under section 272) or, as the case may be, CIS 3 or CIS 17 applicable to a prospectus of a scheme of the type concerned.
**qualified investor scheme**

an authorised fund whose instrument constituting the scheme contains the statement in COLL 8.2.6R1(2) (Table: contents of the instrument constituting the scheme) that it is a qualified investor scheme.

...

**redemption charge**

an amount levied by the operator of a scheme upon the redemption of units, in the case of an authorised fund under:

(a) COLL 6.7.7R (Charges on buying and selling units); or

(b) CIS 8.2.7R (Redemption charge: ICVCs); or

(c) CIS 8.5.2R (Redemption charge: single-priced AUTs); or

(d) CIS 15.4.10R (Redemption charge).

...

**register**

... (in COLL) the register of unitholders kept under Schedule 3 to the OEIC Regulations or COLL 6.4.4R (Register: general requirements and contents), or COLL 8.5.8R (The register of unitholders: AUTs) as appropriate or, in relation to a collective investment scheme that is not an authorised fund, a record of the holders (other than of bearer certificates) of units in it.

...

**sale**

... (in COLL and CIS) ...

...

**scheme of arrangement**

(in COLL and CIS) an arrangement relating to an authorised fund ("transferor fund") or to a sub-fund of an umbrella—a scheme that is an umbrella ("transferor sub-fund") under which:

...
standing independent valuer  the person appointed as such under COLL 5.6.20R (Standing independent valuer and valuation) and COLL 8.4.13R(1) (Standing independent valuer and valuation) or, as the case may be, CIS 12.3.1R (Standing independent valuer).

transferable security  (in COLL and CIS) an investment within COLL 5.2.7R (Transferable securities), CIS 5.2.9R (Transferable securities) or, as the case may be, CIS 5A.2.9R (Transferable securities) in relation to schemes falling under COLL 5, CIS 5 or CIS 5A respectively.

trust deed  (in COLL and CIS) the deed referred to in COLL 3.2.3R (The trust deed for AUTs) or, as the case may be, CIS 2.2.5R (The trust deed for AUTs), together with any deed expressed to be supplemental to it, made between the manager and the trustee (or, in the case of a recognised scheme that is a unit trust scheme, the instrument constituting the scheme as amended from time to time).

trust scheme rules  rules in COLL and CIS made by the FSA under section 247(1) of the Act (Trust scheme rules) in relation to:

UCITS scheme  an authorised fund which complies with the conditions necessary for it to enjoy the rights conferred by the UCITS Directive.

an authorised fund whose instrument constituting the scheme contains the statement in COLL 3.2.6R1(2) (Table: contents of the instrument constituting the scheme) that it is a UCITS scheme; unless:

(a) the scheme raises capital without promoting the sale of its units to the public within the EEA or any part of it; or
(b) the scheme’s units, under its trust deed or its instrument constituting the scheme, may be sold only to the public in non-EEA States.

…

umbrella (in COLL and CIS) …

…

umbrella scheme (in CIS) an authorised fund that is an umbrella.

(in CIS) an authorised fund that is an umbrella except in CIS 2.1 and CIS 5A where such a reference is to a scheme authorised as the type of scheme under CIS 2.1.4R(10) (Types of authorised fund).

…

unitholder (in CIS) …

(in COLL)

(a) (in relation to an ICVC or an AUT as appropriate, and subject to COLL 4.4.4R (Special meaning of unitholder in COLL 4.4)):

(i) (in relation to a unit which is represented by a bearer certificate) the person who holds that certificate; or

(ii) (in a relation a unit that is not represented by a bearer certificate) the person whose name is entered on the register in relation to that unit; or

(b) (in relation to a unit in a collective investment scheme not within (a)):

(i) the holder of a bearer certificate representing that unit; or

(ii) the person who is entered on the register of the scheme as the holder of that unit.
valuation point  a valuation point fixed by the authorised fund manager for the purpose of COLL 6.3.4R (Valuation points), COLL 8.5.9R (Valuation, pricing and dealing), CIS 4.8.5R (Regular valuation points), CIS 4.8.6R (Additional valuation points) or CIS 15.8.3(1) or (2)R (Frequency of valuation).

…