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) section 138 (General rule-making power);
   (b) section 140 (Restriction on managers of authorised unit trust schemes);
   (c) section 156 (General supplementary powers);
   (d) section 157 (Guidance);
   (e) section 238(5) (Restrictions on promotion);
   (f) section 242 (Applications for authorisation of unit trust schemes);
   (g) section 247 (Trust scheme rules); and
   (h) section 248 (Scheme particulars rules); and

(2) regulation 6 (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228).

B. The rule-making powers and related provisions 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 6 October 2006, except that text in Annex A which is placed in bold square brackets is deleted with effect from 12 February 2007.

Amendments to the Handbook

D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

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Citation

E. This instrument may be cited as the New Collective Investment Schemes Sourcebook (Dual Pricing) Instrument 2006.

By order of the Board
28 September 2006
Annex A

Amendments to the Glossary of definitions

In this Annex underlining indicates new text and striking through indicates deleted text. However, Handbook text in this Annex placed in bold square brackets is deleted with effect from 12 February 2007 but is not shown struck through.

Amend the following definitions as shown:

...

bid price  the price at which a person could sell a unit in a dual-priced authorised fund AUT or a security.

...

cancellation price  (in COLL)

(in relation to the cancellation of units in a dual-priced authorised fund) the price for each unit payable by the depositary to the authorised fund manager on that cancellation.

...

dilution (in COLL [and CIS]) the amount of dealing costs incurred, or expected to be incurred, by an ICVC or for the account of a single-priced authorised fund AUT to the extent that these costs may reasonably be expected to result, or have resulted, from the acquisition or disposal of investments by the ICVC or for the account of the single-priced authorised fund AUT as a consequence (whether or not immediate) of the increase or decrease in the cash resources of the ICVC or single-priced authorised fund AUT resulting from the issue or cancellation of units over a period;

for the purposes of this definition, dealing costs include both the costs of dealing in an investment, professional fees incurred, or expected to be incurred, in relation to the acquisition or disposal of an immovable approved immovables and, where there is a spread between the buying and selling prices of the investment, the indirect cost resulting from the differences between those prices.

...

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

...

dilution levy a charge of such amount or at such rate as is determined by the ACD of an ICVC or a authorised fund manager of a single-priced authorised fund AUT to be made for the purpose of reducing the effect of dilution.
A dual-priced AUT [an AUT that is not a single-priced-AUT.]

...an authorised fund or, in the case of an umbrella, a sub-fund (if it were a separate fund), that is not a single-priced authorised fund.

initial price (in COLL [and CIS])

in relation to a unit of any class:

(a) (in relation to a share of an ICVC or a unit in a single-priced AUT single-priced authorised fund,) 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 4.2.4 R (Issue of units: initial offer); or

(b) (in relation to a unit in a dual-priced authorised fund, AUT) such the amount as may be agreed by the depositary trustee and authorised fund manager as being the maximum amount price, inclusive of the manager’s preliminary charge, if any preliminary charge, which that may be paid to the authorised fund manager; for units on an initial offer:

during the period of the initial offer under COLL 6.2.3R (Initial offer) [or, as the case may be, CIS 4.2.4R (Issue of units: initial offer) or CIS 15.2.4R and 15.2.5R (Issue of units: initial offer)].

issue price (in relation to the issue of units of a dual-priced AUT authorised fund) the price price for each unit payable by the authorised fund manager to the trustee depositary on that issue.

large deal [(in CIS) a transaction (or series of transactions in one dealing period) by any person to buy, sell or exchange units in an authorised fund at a total value of £15,000 or its equivalent in the base currency of the authorised fund, or;]

(a) for the purpose of SDRT provision, such other value; or

(b) for all or any other specified purposes, such greater value;

as may be specified in the prospectus;]

(in COLL) a transaction (or series of transactions 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; or

d) calculating the prices, for a dual-priced authorised fund, at which units may be sold or redeemed.

... offer price the price at which a person could purchase a unit in a dual-priced authorised fund or a security.

... price [in CIS]

(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).

(in COLL)

(in relation to a unit in an authorised fund) the price of the unit calculated in accordance with COLL 6.3 (Valuation and pricing).

... redemption price [in CIS]

the authorised fund manager’s price for redemption under CIS 15.4.9R (Redemption price parameters).

(in COLL)

the price payable by the authorised fund manager for each unit it redeems from a unitholder, calculated in accordance with COLL 6.3 (Valuation and pricing).

... sale price (in COLL)

the price payable to the authorised fund manager for each unit it sells to a unitholder, calculated in accordance with COLL 6.3 (Valuation and pricing).

... single-priced AUT [an AUT for the units of which there is only one price applicable by reference to a valuation point.]

...
unitisation arrangements for a newly formed dual-priced AUT under which:

(a) the whole or part of the property of a body corporate (or a collective investment scheme) becomes the first property to be held on the trusts of the AUT; and

(b) the holders of:

(i) shares (or units) in the body corporate (or collective investment scheme) being wound up; or

(ii) units in the collective investment scheme, the property of which is being transferred;

become the first participants in the AUT.
In this Annex, underlining indicates new text and striking through indicates deleted text.

**Table: contents of the prospectus**

4.2.5   R …

**Valuation and pricing of scheme property**

16   In relation to the valuation and pricing of scheme property and pricing of units:

   (a)   either:

      (i)   in the case of a single-priced authorised fund, a provision that there must be only a single price for any unit as determined from time to time by reference to a particular valuation point; or

      (ii)  in the case of a dual-priced authorised fund, the authorised fund manager’s policy for determining prices for the sale and redemption of units by reference to a particular valuation point and an explanation of how those prices may differ;

   (b) …

      (iii)  where relevant, how the price of units of each class will be determined for dealing purposes; and

      …

      (v)   where relevant in the case of a dual-priced authorised fund, the authorised fund manager’s policy in relation to large deals; and

      …

**Dilution**

18   In the case of a single-priced authorised fund, details of what …

…

**Guidance on contents of the prospectus**

4.2.6   G …

(4)   In relation to COLL 4.2.5R (16)(a), where the prospectus includes provisions for both a single-priced authorised fund and a dual-priced authorised fund, it should state prominently which method of pricing is applicable to which authorised fund, and explain how
the differences between them may affect unitholders (for example if a unitholder exchanges units in a single-priced authorised fund for units in a dual-priced authorised fund, or vice versa).

Guidance on significant changes

4.3.7 G …

(2) …

(b) … allocation of payments policy; or

(c) … purchased through a group savings plan; or

(d) a change in the pricing arrangements for units of the scheme so as to cause a single-priced authorised fund to become a dual-priced authorised fund, or vice versa.

Valuation

5.2.5 R …

(3) When valuing the scheme property of a dual-priced authorised fund, the cancellation basis of valuation referred to in COLL 6.3.3R (2) (Valuation) is to be applied.

Explanation of this chapter

6.1.3 G …

(3) … and to oversee certain functions of the the authorised fund manager …

Application

6.2.1 R This section applies to an authorised fund manager, a depositary, an ICVC and any other directors of an ICVC.

Initial offers

6.2.3 R …

(3) The authorised fund manager must, … pay the depositary the initial price in respect of any unit it has agreed to sell during the period of the initial offer.
(a) in the case of a single-priced authorised fund, the initial price of that unit; or

(b) in the case of a dual-priced authorised fund, the initial price of that unit less, where relevant, an amount not exceeding the amount of any preliminary charge stated in the prospectus.

...

Controls over the issue and cancellation of units

6.2.8 R ...

(2) ...

(a) for an AUT, when giving instructions to the depositary trustee for the issue or cancellation of units; or

...

do, or omit to do, anything which would, or might, confer on himself or an associate a benefit or advantage at the expense of a unitholder or a potential unitholder.

...

Controls over the issue and cancellation of units - guidance

6.2.9 G ...

(3) ... the price of the units should be calculated at the valuation point before or after the instruction ...

...

Box management errors guidance

6.2.12 G ...

Correction of box management errors

...

2 Controls by depositaries

(1) ... should take reasonable care to ensure that a scheme scheme is managed in accordance with ...

...

Payments for units issued

6.2.13 R (1) The authorised fund manager must, by the close of business on the fourth business day following the issue of any units, arrange for
payment to the trustee or the ICVC of:

(a) in the case of a single-priced authorised fund, the value price of the units issued and any payments required under COLL 6.3.7R (SDRT provision) and COLL 6.3.8R (Dilution); or

(b) in the case of a dual-priced authorised fund, the issue price of the units and any payment required under COLL 6.3.7R.

to the trustee or the ICVC.

Payment for cancelled units

6.2.14 R (1) On cancelling units the authorised fund manager must, before the expiry of …, require the depositary to pay:

(a) in the case of a single-priced authorised fund, the price of the units (less any deductions required under COLL 6.3.7R and COLL 6.3.8R); or

(b) in the case of a dual-priced authorised fund, the cancellation price of the units (less any deduction required under COLL 6.3.7R);

to the authorised fund manager, or …

In specie issue and cancellation

6.2.15 R The depositary may take into or pay out of scheme property assets other than cash as payment for the issue or cancellation of units but only if:

…

Sale and redemption

6.2.16 R …

(2) …

(b) the issue of units is prevented under COLL 6.2.18R (Limited issue).

…

(6) … for the purposes of buying or selling dealing in units if later …

(7) … must sell or redeem units at a price determined no later than …

(8) The authorised fund manager must not sell a unit for more than the price of a unit of the relevant class at the relevant valuation point, to which may be added any preliminary charge permitted and any
payment required under COLL 6.3.7R and COLL 6.3.8R. [deleted]

(9) The authorised fund manager must not redeem a unit for less than the price of a unit of the relevant class at the relevant valuation point, less any redemption charge permitted and any deduction under COLL 6.3.7R and COLL 6.3.8R. [deleted]

(10) Paragraphs (4), (5) and (9) COLL 6.3.5AR (2) (Sale and redemption prices for single-priced authorised funds) do not apply where the authorised fund manager is buying units as principal …

Sale and redemption: guidance

6.2.17 G (1) … after which it will not accept instructions to sell or redeem units at that valuation point. …

…

Limited issue

6.2.18 R …

(2) … for the further issue of units unless, at the time of the issue, he is satisfied on reasonable grounds …

…

Limited redemption

6.2.19 R (1) … and the prospectus of a non-UCITS retail fund scheme that invests substantially in approved immovables or whose investment objective …

…

Deferred redemption

6.2.21 R …

(2) …

(a) the consistent treatment of all unitholders who have sought to redeem units at any valuation point at which redemptions are deferred; and

…

Purpose

6.3.2 G …

(2) … This section protects clients by:
(a) setting out rules and guidance to ensure the prices of units in both a single-priced authorised fund and a dual-priced authorised fund are calculated fairly and regularly;

(b) allowing for... scheme property caused by:

... 

c) making appropriate provision to ensure clients are treated fairly where units are being dealt in at a known (historic) price; and

d) ensuring that the prices are made public in an appropriate manner.

(3) ... instead of the base currency of the umbrella. Consequently different methods of pricing units may be applied by an authorised fund manager to different sub-funds of an umbrella.

(4) The authorised fund manager must follow the same method of pricing for each class of units in an authorised fund, or in a sub-fund of an umbrella.

Valuation

6.3.3 R (1) To determine the price of units the authorised fund manager must carry out a fair and accurate valuation of all the scheme property in accordance with the instrument constituting the scheme and the prospectus.

(2) For a dual-priced authorised fund, each valuation of the scheme property must consist of two parts, carried out on an issue basis and a cancellation basis respectively.

Valuation points

6.3.4 R ... 

(8) The authorised fund manager may determine to have an additional valuation point for an authorised fund as a result of market movement under COLL 6.3.9 (Forward and historic pricing) or otherwise, in which case it must inform the depositary.

Price of a unit

6.3.5 R (1) An authorised fund manager must ensure that the price of a unit of any class is calculated:

(a) by reference to the net value of the scheme property; and

(b) must be calculated in accordance with the provisions of both the instrument constituting the scheme and the prospectus.

...
(3) For each class of units in a single-priced authorised fund, a single price must be calculated at which units are to be issued and cancelled.

(4) For each class of units in a dual-priced authorised fund, an issue price and a cancellation price must be calculated by reference to the respective parts of the valuation carried out under COLL 6.3.3R (2).

Sale and redemption prices for single-priced authorised funds

6.3.5A R The authorised fund manager of a single-priced authorised fund must not:

(1) sell a unit for more than the price of a unit of the relevant class at the relevant valuation point, to which may be added any preliminary charge permitted and any payments required under COLL 6.3.7R and COLL 6.3.8R; or

(2) redeem a unit for less than the price of a unit of the relevant class at the relevant valuation point, less any redemption charge permitted and any deductions under COLL 6.3.7R and COLL 6.3.8R.

Sale and redemption price parameters for dual-priced authorised funds

6.3.5B R (1) The authorised fund manager of a dual-priced authorised fund must not:

(a) sell a unit for more than the maximum sale price of a unit of the relevant class at the relevant valuation point, to which may be added any payment required under COLL 6.3.7R; or

(b) redeem a unit for less than the cancellation price of a unit of the relevant class at the relevant valuation point, less any redemption charge permitted and any deduction under COLL 6.3.7R.

(2) The maximum sale price of units under (1)(a) is the total of:

(a) the issue price; and

(b) the current preliminary charge.

(3) The sale price of units under (1)(a) must not be less than the relevant redemption price under (1)(b).

(4) The redemption price under (1)(b) must not exceed the relevant issue price of the relevant units.

(5) Subject to COLL 6.7.9R (Charges for the exchange of units in an umbrella), in the case of an umbrella:

(a) the maximum price at which units in one sub-fund that is a dual-priced authorised fund may be acquired in exchange for units in another sub-fund must not exceed the relevant maximum sale price (less any preliminary charge) of the new units; and
6.3.5G

(b) the minimum price at which the old units in a sub-fund that is a dual-priced authorised fund may be taken in exchange must not be less than the equivalent cancellation price.

6.3.5C

The prospectus may make provision for large deals to be carried out at a higher sale price or a lower redemption price than those published, provided they do not exceed the relevant maximum and minimum parameters.

Valuation and pricing guidance

6.3.6G

Table: This table belongs to COLL 6.3.2G (2)(a) and COLL 6.3.3R (Valuation)

...  

1 The valuation of scheme property

...

(2) An investment for which different prices are quoted according to whether it is being bought or sold should be valued at its mid-market price. The instrument constituting the scheme should set out the valuation method that will apply where a single price for buying and selling a security is quoted.

For some or all of the investments comprising the scheme property, different prices may quoted according to whether they are being bought (offer prices) or sold (bid prices). The valuation of a single-priced authorised fund should reflect the mid-market value of such investments. In the case of a dual-priced authorised fund, the issue basis of the valuation will be carried out by reference to the offer prices of investments and the cancellation basis by reference to the bid prices of those same investments. The prospectus should explain how investments will be valued for which a single price is quoted for both buying and selling.

...

(5) (a) no reliable price exists for a security security at a valuation point; or

...

(7) ... 

(c) the basis and reliability of the alternative price price used; and

...
2 The pricing controls of the authorised fund manager

...

(2) ... 

(b) investment investment transactions are accurately and promptly reflected in valuations;

c) the components of the valuation (including stock, cash and units in issue) are regularly reconciled to their source or prime records and any reconciling items resolved promptly and debtors reviewed for recoverability;

...

(f) dividends are accounted for as soon as stocks securities are quoted ex-dividend (unless it is prudent to account for them on receipt):

(g) fixed interest dividends, interest and expenses are accrued at each valuation point valuation point:

...

(3) ... and may choose a longer interval, if appropriate, given the level of activity on the fund authorised fund or the materiality of any effect on the price.

...

(6) Where the pricing function is delegated to a third party, COLL 6.6.15 R (1) (Committees and delegation) will apply.

...

3 The depositary’s review of the authorised fund manager’s systems and controls

(1) ...These checks also apply where an authorised fund manager has delegated all or some of its pricing functions to a third party.

...

(5) ...verifying, on a sample basis, if necessary, the assets, liabilities, accruals, units in issue, securities prices ...

...

4 The recording and reporting of instances of incorrect pricing

...

(3) A depositary should also report to the FSA immediately any instance of incorrect pricing where the error is 0.5% or more of the price of a
In accordance with SUP 16.6.8R, a depositary should also make a return to the FSA on a quarterly basis which summarises the number of instances of incorrect pricing during a particular period.

The rectification of pricing breaches

(1) … and the scheme itself, for instances of incorrect pricing, except if it appears to the depositary that the breach is of minimal significance.

(2) A depositary may consider that the instance of incorrect pricing is of minimal significance if:

…

(b) the error in pricing of a unit is less than 0.5% of the correct price.

(3) In determining (2), if the instance of incorrect pricing is due to one or more factors or exists over a period of time, each price should be considered separately.

(5) The depositary should satisfy itself that any payments required following an instance of incorrect pricing are accurately and promptly calculated and paid.

Forward and historic pricing

(2) If forward prices only are to be used, all deals must be at a forward price.

(3) …

(b) where the regular valuation points are more than one business day apart;

(c) If the request to deal reaches the authorised fund manager through the post or by any similar form of non-interactive communication;

(6) All sub-funds of a scheme which is an umbrella must adopt the same pricing basis, …

Publication of prices

Where the authorised fund manager is prepared to deal in units, or is willing to issue or cancel units—under COLL 6.2.7, it must make the dealing prices public in an appropriate manner.
Manner of price publication

6.3.12 G (1) …

(c) publication is consistent with the manner and frequency at which the units are sold dealt in;

…

Valuation, pricing and dealing

8.5.9 R …

(8) Immediately after completing a valuation under (6), the authorised fund manager must notify the depositary of:

(a) the price in the relevant currency of each type of unit as determined for the relevant valuation point; and

(b) the basis of any adjustment applied in relation to that valuation point. [deleted]

(9) The authorised fund manager must publish in an appropriate manner the price of any type of unit based on the notification to the depositary in (8)(a) valuation carried out in accordance with (6).

…