

**COLLECTIVE INVESTMENT SCHEMES SOURCEBOOKS  
(MISCELLANEOUS AMENDMENTS) INSTRUMENT 2006**

**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(1) (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 April 2006.

**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).

(1)	(2)
Glossary of definitions	Annex A
Collective Investment Schemes sourcebook (CIS)	Annex B
New Collective Investment Schemes sourcebook (COLL)	Annex C

**Citation**

- E. This instrument may be cited as the Collective Investment Schemes Sourcebooks (Miscellaneous Amendments) Instrument 2006.

By order of the Board  
23 February 2006

## Annex A

### Amendments to the Glossary of definitions

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

Amend the following definition as shown:

*IMA SORP*      the Statement of Recommended Practice for financial statements of *authorised funds* issued by the Investment Management Association and effective as at ~~1 December 2003~~ 1 January 2006.

## Annex B

### Amendments to the Collective Investment Schemes sourcebook

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

...

#### Borrowing limits

5.5.4 R ...

- (4) ~~[deleted] For an ICVC, borrowing does not include any arrangement for the ICVC to pay to a third party (including the ACD) any costs which the ICVC is entitled to amortise under CIS 8.3.4R (Set up costs) and which were paid on behalf of the ICVC by the third party.~~

...

#### Borrowing limits

5A.15.4 R ...

- (6) ~~[deleted] For an ICVC, borrowing does not include any arrangement for the ICVC to pay to a third party (including the ACD) any costs which the ICVC is entitled to amortise under CIS 8.3.4R (Set up costs) and which were paid on behalf of the ICVC by the third party.~~

...

#### Appointment of an ACD

7.2.2 R ...

- (3) For an ICVC that holds annual general meetings under the OEIC Regulations, The the ...

...

#### Set up costs

8.3.4 R

- (1) ~~[deleted] When (2) applies, costs of the *authorisation* and incorporation of an ICVC and of its *initial offer* or *issue of shares* (or *initial offer* or *issue of shares* in respect of a *sub-fund*) may, subject to CIS 8.3.1R (Promotional payments), be amortised over a period not exceeding five years.~~
- (2) ~~[deleted] Amortisation under (1) is only permitted if, on or before 30 November 2000, it had commenced and been disclosed in the *prospectus*.~~

...

## Resolutions

11.2.5 R ...

(3) Where a resolution (including an extraordinary resolution) is required to conduct business at a meeting of shareholders and every shareholder is prohibited under CIS 11.2.6R(4)(a) (Voting rights) from voting, it shall not be necessary to convene such a meeting and a resolution may, with the prior written agreement of the depositary to the process, instead be passed with the written consent of shareholders representing 50% or more, or for an extraordinary resolution 75% or more, of the shares of the scheme in issue.

...

## Voting rights

11.3.9 R ...

(7) Where every unitholder is prohibited under (6)(a) from voting, the unitholders may, with the prior written agreement of the trustee to the process, instead approve the business of the meeting by written resolution and any resolution approved in this manner by unitholders representing 75% or more of the units of the scheme in issue shall have the effect of an extraordinary resolution, duly approved under the rules of this chapter.

...

## Consequences of commencement of winding up

14.2.5 R ...

- (3) The ACD must as soon as practicable after the effective time:
- (a) ~~[deleted] publish notice of the commencement of the winding up (if the head office of the ICVC is situated in England and Wales or Wales) in the London Gazette, or (if the head office of the ICVC is situated in Scotland) in the Edinburgh Gazette; and~~
  - (b) if the ACD has not previously notified ...

...

## Annex C

### Amendments to the New Collective Investment Schemes sourcebook

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

...

Table: contents of the prospectus

4.2.5

R

...

Authorised fund

2 A description of the *authorised fund* including:

...

(b) ...

(ba) whether it is a UCITS scheme or a non-UCITS retail scheme;

...

...

Contracts and other relationships with parties

11 ...

(a) (i) a summary of the material provisions of the contract between the ICVC and the ~~authorised fund manager~~ ACD which may ...

...

(iii) ... a statement of that fact; ~~and~~

(iv) ... in summary form; and

(v) for an ICVC that does not hold annual general meetings, a statement that copies of contracts of service between the ICVC and its directors, including the ACD, will be provided to a unitholder on request;

...

...

General information

23 ...

- (c) ... *units*; ~~and~~
- (d) ... *scheme property* ~~;~~ and
- (e) for an ICVC, whether or not annual general meetings will be held.

...

Guidance on contents of the prospectus

- 4.2.6 G (1) ...
- (a) ...
  - (b) ...
  - (ii) a statement of the policy of the *authorised fund manager* in relation to insurance ~~and~~ of immovables forming part of ...

...

...

- (3) In relation to *COLL 4.2.5R(27)*, the *prospectus* might include a statement of the *authorised fund manager's* policy in relation to *holding units* in the *scheme* as *principal*, and in particular whether it seeks to make a profit from doing so. It might also include a prominent statement of non-accountability ...

...

Guidance on significant changes

- 4.3.7 G ...
- (3) Where the *directors* of an ICVC elect to discontinue holding annual general meetings under paragraph 37A of the *OEIC Regulations*, they are required to give 60 days' written notice to *shareholders*. For the purpose of *COLL 4.3.6R* this should be treated as a significant change to the operation of the *scheme*.

...

Resolutions

- 4.4.7 R ...
- (3) Where a resolution (including an *extraordinary resolution*) is required to conduct business at a meeting of *unitholders* and every *unitholder* is prohibited under *COLL 4.4.8R(4)* from voting, it shall not be necessary to convene such a meeting and a resolution may, with the prior written

agreement of the *depository* to the process, instead be passed with the written consent of *unitholders* representing 50% or more, or for an *extraordinary resolution* 75% or more, of the *units* of the *scheme* in *issue*.

Voting rights

4.4.8 R ...

- (3) ~~For joint *unitholders* of a *unit*, only the vote of the first named in the *register* of *unitholders* can be taken.~~  
For joint *unitholders*, the vote of the most senior who votes, whether in person or by proxy, must be accepted to the exclusion of the votes of the other joint *unitholders*. For this purpose seniority must be determined by the order in which the names stand in the *register* of *unitholders*.

...

...

Chairman, adjournment and minutes

4.4.11 R (1) A meeting of *unitholders* must have a chairman, nominated;

(a) in the case of an *AUT*, by the *trustee*;

(b) in the case of an *ICVC*, by a *director* other than the *ACD* or an *associate* of the *ACD* or, if no such nomination is made, by the *depository*.

...

Notices to unitholders

4.4.12 R (1) ...

(a) ...

(i) ~~delivered to~~ sent by post to or left at the *unitholder's* address as appearing in the *register*; or

(ii) ~~delivered~~ sent by using an electronic medium in accordance with *COLL* 4.4.13R (Other notices); or

...

...

...

#### Contents of the annual long report

- 4.5.7 R (1) ...
- (2) An annual long report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:  
...
- (3) The *directors* of an *ICVC* or the *manager* of an *AUT* must ensure that the accounts referred to in (1)(a) ~~and~~, (2)(a) and (4)(a) give a true and fair view of the net income and the net gains and the losses on the *scheme property* of the *authorised fund* or, in the case of (2)(a) and (4)(a), the *sub-fund*, for the *annual accounting period* in question ...
- (4) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further annual long report for any one or more individual *sub-funds* of the *scheme*, in which case it must contain:
- (a) in relation to the *sub-fund*:
- (i) the full accounts for the *annual accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*;
- (ii) the report of the *authorised fund manager* in accordance with *COLL 4.5.9R*; and
- (iii) the comparative table in accordance with *COLL 4.5.10R*;
- (b) the report of the *depository* in accordance with *COLL 4.5.11R*; and
- (c) the report of the auditor in accordance with *COLL 4.5.12R*.

#### Contents of the half-yearly long report

- 4.5.8 R ...
- (2) A half-yearly long report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:
- (a) for each *sub-fund*:
- (i) the full accounts for the ~~annual~~ *half-yearly accounting period* which must be ...
- ...
- ...



- (3) The authorised fund manager of a scheme which is an umbrella may, in addition to complying with (2), prepare a further half-yearly long report for any one or more individual sub-funds of the scheme. Such reports must contain the full accounts and the report of the authorised fund manager that would be required by (1) if the sub-fund were a separate authorised fund.

Annual and half-yearly long reports for sub-funds of an umbrella

4.5.8A     G     The authorised fund manager may, but need not, prepare annual and half-yearly long reports for any individual sub-fund of an umbrella in accordance with COLL 4.5.7R(4) and COLL 4.5.8R(3) and make them available on request to any unitholder investing in the relevant sub-fund. However, if the authorised fund manager does so, this does not relieve it of its duty:

- (1) to prepare annual and half-yearly long reports on the umbrella as a whole (COLL 4.5.7R(2) and COLL 4.5.8R(2)); and
- (2) to make available and publish the annual and half-yearly long reports for the umbrella as a whole (COLL 4.5.14R).

Authorised fund manager's report

4.5.9     R     The matters set out in (1) to ~~(12)~~(13) must be included in any authorised fund manager's report, except where otherwise indicated:

...

(11) for a report on an umbrella prepared in accordance with COLL 4.5.7R(2) or COLL 4.5.8R(2):

(a) (for an ICVC), a statement to the effect that, ...

(b) ... as a whole; and

(12) ... that scheme invests-; and

(13) for a report on an individual sub-fund of a scheme which is an umbrella prepared in accordance with COLL 4.5.7R(4) or COLL 4.5.8R(3):

(a) (for an ICVC) a statement corresponding to that required by (11)(a) making it clear that if the liability relates to another sub-fund of the umbrella, the shortfall or any part of it might have to be met out of the assets of the sub-fund to which the report relates; and

(b) a statement that the latest long report prepared for the

umbrella as a whole is available on request.

...

Provision of short report

- 4.5.13 R (1) ...
- (2) ...
- (a) ... accounting period; ~~and~~
- (b) ... at his request; and
- (c) to any other person free of charge on request.

...

Publication and availability of annual and half-yearly long report

- 4.5.14 R (1) The *authorised fund manager* must, within four *months* after the end of each *annual accounting period* and two *months* after the end of each *half-yearly accounting period* respectively, make available and publish the long reports prepared in accordance with *COLL 4.5.7R(1) to (3)* (Contents of the annual long report) ~~or and~~ *COLL 4.5.8R(1) to (2)* (Contents of the half-yearly report).
- (2) ...
- (a) be supplied free of charge to ~~unitholders who request it~~ any person on request;
- ...

...

Investment in collective investment schemes

- 5.2.13 R ...
- (2) and *COLL 5.2.16R* (Investment in other group schemes); ~~and~~
- (3) ... in *collective investment schemes*; and
- (4) where the second *scheme* is an *umbrella*, the provisions in (2) and (3) apply to each *sub-fund* as if it were a separate *scheme*.

...

5.5.2 R Table of application

This table belongs to *COLL 5.5.1R*

Rule	<i>ICVC</i>	<i>ACD</i>	<i>Manager of an AUT</i>	<i>Depositary of an ICVC</i>	<i>Trustee of an AUT</i>
...					
<del>5.5.5R(4)</del>	*	*			
...					

...

Borrowing limits

5.5.5 R ...

- (4) ~~[deleted] For an *ICVC*, borrowing does not include any arrangement for the *ICVC* to pay to a third party (including the *ACD*) any costs which the *ICVC* is entitled to amortise under the rules in this sourcebook and which were paid on behalf of the *ICVC* by the third party.~~

...

Investment in collective investment schemes

5.6.10 R *A non-UCITS retail scheme* must not invest in *units* in a *collective investment scheme* (second *scheme*) unless the second *scheme* meets each of the requirements at (1) to ~~(4)~~(5):

...

- (3) ... in *collective investment schemes*; ~~and~~

- (4) ...

- (b) in accordance with the *scheme*; ~~and~~

- (5) where the second *scheme* is an *umbrella*, the provisions in (2) to (4) apply to each *sub-fund* as if it were a separate *scheme*.

...

Investment limits for immovables

5.6.19 R ...

(5) not more than 20% in value of the *scheme property* is to consist of ~~mortgaged~~ immovables that are subject to a mortgage and ... ;

(6) ~~an immovable may be mortgaged up to 100% of the value in (4) provided that no more than 20% of the value of the *scheme property* consists of such immovables and any *transferable securities* which are not *approved securities*;~~

the aggregate value of:

(a) mortgages secured on immovables under (5);

(b) borrowing of the *scheme* under *COLL 5.6.22R(5)*; and

(c) any *transferable securities* that are not *approved securities*;

must not at any time exceed 20% of the value of the *scheme property*;

...

...

Cash, borrowing, lending and other provisions

5.6.22 R ...

(5) *COLL 5.5.5R(1)*, and (2) and (4) (Borrowing limits);

...

...

Appointment of an ACD

6.5.3 R ...

(3) For an *ICVC* that holds annual general meetings under the *OEIC Regulations*, ~~The the~~ ...

...

...

Application

6.9.1 R This section applies to ~~the~~ an *authorised fund manager*, and the a *depository*, of an *authorised fund* an *ICVC* and any other *directors* of an *ICVC*.

...

Consequences of commencement of winding up or termination

7.3.6 R ...

(3) The *ACD* must as soon as practicable after winding up or termination has commenced:

(a) ...

(b) if winding up an *ICVC* that has its head office situated in Northern Ireland, publish notice of the commencement of the winding up ~~(if the head office of the *ICVC* is situated in England and Wales or Wales) in the London Gazette, or (if the head office of the *ICVC* is situated in Scotland) in the Edinburgh Gazette or (if the head office of the *ICVC* is situated in Northern Ireland) in the Belfast Gazette.~~

...

Drawing up and availability of prospectus

8.3.2 R (1) ...

(b) ... *prospectus*, ~~and~~ ;

(c) ... to the *FSA*; ~~and~~

(d) review the *prospectus* periodically and revise it to take account of any significant change or new matter.

...

Report and accounts

8.3.5 R ...

(2A) Where the first *annual accounting period* of a *scheme* is less than 12 months, a half-yearly report need not be prepared.

...

(4) ~~[deleted] The *authorised fund manager* must comply with the requirements of the *IMA SORP*.~~

(5) The *authorised fund manager* must provide free of charge on the request of ~~a purchaser of units~~ any person eligible to invest in the *scheme* a copy of the latest annual or half-yearly report before the conclusion of ~~that~~ any sale to such person.

...

(7) For a *scheme* which is an *umbrella*, any annual report provided under (3) or (5) may be a report prepared under *COLL 8.3.5AR(3)*,

but the *authorised fund manager* must nevertheless provide free of charge the report prepared under COLL 8.3.5AR(2) if a *unitholder* or any other *person* eligible to invest in the *scheme* requests it.

Contents of the annual report

- 8.3.5A R (1) An annual report, other than for a *scheme* which is an *umbrella*, must contain:
- (a) the full accounts for the *annual accounting period* prepared in accordance with the requirements of the *IMA SORP*;
  - (b) the report of the *authorised fund manager* in accordance with COLL 8.3.5CR (Authorised fund manager's report);
  - (c) the report of the *depository* in accordance with COLL 8.3.5DR (Report of the depository); and
  - (d) the report of the auditor in accordance with COLL 4.5.12R (Report of the auditor).
- (2) An annual report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:
- (a) for each *sub-fund*, the full accounts required by (1)(a) and the report of the *authorised fund manager* in accordance with COLL 8.3.5CR;
  - (b) an aggregation of the accounts required by (a);
  - (c) the report of the *depository* in accordance with COLL 8.3.5DR; and
  - (d) the report of the auditor in accordance with COLL 4.5.12R.
- (3) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further annual report for any one or more individual *sub-funds* of the *umbrella*, in which case it must contain:
- (a) for the *sub-fund*, the full accounts required by (1)(a) and the report of the *authorised fund manager* in accordance with COLL 8.3.5CR;
  - (b) the report of the *depository* in accordance with COLL 8.3.5DR; and
  - (c) the report of the auditor in accordance with COLL 4.5.12R.

- (4) The directors of an ICVC or the manager of an AUT must ensure that the accounts referred to in (1)(a), (2)(a) and (3)(a) give a true and fair view of the net income and the net gains and losses on the scheme property of the authorised fund or sub-fund for the relevant annual accounting period, and of the financial position of the authorised fund or sub-fund as at the end of that period.

Contents of the half-yearly report

- 8.3.5B R (1) A half-yearly report on an authorised fund or sub-fund must contain:
- (a) the full accounts for the half-yearly accounting period which must be prepared in accordance with the requirements of the IMA SORP; and
  - (b) the report of the authorised fund manager in accordance with COLL 8.3.5CR.
- (2) For a scheme which is an umbrella, the authorised fund manager may choose whether the half-yearly report is prepared for the umbrella as a whole, or for each individual sub-fund, or both.

Authorised fund manager's report

- 8.3.5C R The report of the authorised fund manager must include:
- (1) a review of the investment activities during the period to which the report relates;
  - (2) particulars of any fundamental or significant change to the authorised fund made since the date of the last report; and
  - (3) any other information which would enable unitholders to make an informed judgement on the development of the activities of the authorised fund during the period and the results of those activities as at the end of the period.

Report of the depositary

- 8.3.5D R (1) The depositary must make an annual report to unitholders which must be included in the annual report.
- (2) The depositary's report must contain:
- (a) a description, which may be in summary form, of the duties of the depositary under COLL 8.5.4R (Duties of the depositary) and in respect of the safekeeping of the scheme property; and
  - (b) a statement whether in any material respect:

- (i) the issue, sale, redemption and cancellation and calculation of the price of the units and the application of the authorised fund's income, have not been carried out in accordance with the rules in this sourcebook and, where applicable, the OEIC Regulations and the instrument constituting the scheme; and
- (ii) the investment and borrowing powers and restrictions applicable to the authorised fund have been exceeded.

...

Investment in a collective investment scheme that is an umbrella

8.4.5A R Where the second scheme in COLL 8.4.5R is an umbrella, the provisions apply to each sub-fund as if it were a separate scheme.

...

Valuation of an OTC derivative

8.4.7A R A transaction in an OTC derivative must be capable of valuation which it will only be if the authorised fund manager having taken reasonable care determines that, throughout the life of the derivative (if the transaction is entered into), it will be able to value the investment concerned with reasonable accuracy:

- (1) on the basis of the pricing model; or
  - (2) on some other reliable basis reflecting an up-to-date market value;
- which has been agreed between the authorised fund manager and the depositary.

...

COLL Sourcebook – Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
Extra time provision					
...					



13	<u>COLL 4.2.5R, Table paragraphs 2 (bb), 11 (a)(v) and 23 (e)</u>	<u>R</u>	<p><u>In relation to any authorised fund in existence on the day before 6 April 2006 there is no obligation to revise the <i>prospectus</i> as a result of the application of <i>COLL</i> 4.2.5R, Table paragraphs 2 (bb), 11 (a)(v) or 23 (e) until the earlier of:</u></p> <p><u>(1) the date the <i>prospectus</i> is next revised; and</u></p> <p><u>(2) 6 April 2007.</u></p>	<u>From 6 April 2006 to 6 April 2007</u>	<u>6 April 2006</u>
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