

**COLLECTIVE INVESTMENT SCHEMES SOURCEBOOK
(ELECTRONIC COMMUNICATIONS) INSTRUMENT 2009**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 247 (Trust scheme rules); and
 - (e) section 248 (Scheme particulars rules);
 - (2) regulation 6 (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
 - (3) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) Subject to (2), this instrument comes into force on 6 February 2009.
- (2) The amendments in the Annexes to this instrument come into force when and if the applications of section 53(1)(c) of the Law of Property Act 1925, section 1(2)(a) (ii) of the Requirements of Writing (Scotland) Act 1995 and section VI of the Statute of Frauds (Ireland) 1695 are modified and the Open-Ended Investment Companies Regulations 2001 are amended in a manner consistent with those amendments.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Collective Investment Schemes sourcebook (COLL) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Collective Investment Schemes Sourcebook (Electronic Communications) Instrument 2009.

By order of the Board
22 January 2009

Annex A

Amendments to the Glossary of definitions

In this Annex, the text is all new and is not underlined.

Insert the following new definition in the appropriate alphabetical position.

electronic communication has the meaning given in section 15(1) of the Electronic Communications Act 2000.

Annex B

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

4.2.5 R This table belongs to *COLL* 4.2.2R (Publishing the prospectus)

| | | | |
|----------------|----------------------------|---|---|
| ... | | | |
| Dealing | | | |
| 17 | The following particulars: | | |
| | ... | | |
| | (g) | the circumstances ...; and | |
| | (h) | in a <i>prospectus</i> available during the period of any <i>initial offer</i> : | |
| | | ... | |
| | | (vi) | any other relevant details of the <i>initial offer</i> ; <u>and</u> |
| | (i) | <u>whether a <i>unitholder</i> may effect transfer of title to <i>units</i> on the authority of an <i>electronic communication</i> and if so the conditions that must be satisfied in order to effect a transfer.</u> | |
| ... | | | |

...

4.4.13 R ...

- (3) (a) In this sourcebook, any requirement that a *document* be signed may be satisfied by an electronic signature or electronic evidence of assent.
- (b) In relation to an *AUT*, where transfer of title to *units* is to be effected on the authority of an *electronic communication*, the *manager* must take reasonable steps to ensure that any *electronic communication* purporting to be made by the *unitholder* or his agent is in fact made by that *person*.

...

8.3.4 R This table belongs to *COLL* 8.3.2R.

| | | |
|-----|-------------|---|
| ... | | |
| 13 | Dealing | |
| | Details of: | |
| | ... | |
| | (8) | the circumstances ...; and |
| | (9) | the circumstances ...; <u>and</u> |
| | <u>(10)</u> | <u>whether a <i>unitholder</i> may effect transfer of title to <i>units</i> on the authority of an <i>electronic communication</i> and if so the conditions that must be satisfied in order to effect a transfer.</u> |
| ... | | |