Powers exercised

A. The Financial Conduct 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 137A (The FCA’s general rules);
(b) section 137T (General supplementary powers);
(c) section 139A (Power of the FCA to give guidance);
(d) section 247 (Trust scheme rules);
(e) section 248 (Scheme particulars rules);
(f) section 261I (Contractual scheme rules); and
(g) section 261J (Contractual scheme particulars rules);

(2) regulation 6(1) (FCA 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 referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 26 July 2013.

Amendments to the Handbook

D. The Senior Management Arrangements, Systems and Controls sourcebook (SYSC) 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.

Notes

F. In Annex B to this instrument, the “note” (indicated by “Note:”) is provided for the convenience of readers but does not form part of the legislative text.
Citation

G. This instrument may be cited as the Collective Investment Schemes Sourcebook (Amendment No 8) Instrument 2013.

By order of the Board of the Financial Conduct Authority
25 July 2013
Annex A

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

In this Annex, striking through indicates deleted text.

6.1 Compliance

...

6.1.4A R ...

(2) In SYSC 6.1.4AR(1) compliance means compliance with the rules in:

...

(b) COLL (Collective Investment Schemes sourcebook) and CIS (Collective Investment Schemes sourcebook) (where appropriate);

...
Annex B

Amendment to the Collective Investment Schemes sourcebook (COLL)

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

3.2 The instrument constituting the scheme

Table: contents of the instrument constituting the scheme

3.2.6 R ...

<table>
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<tr>
<td><strong>Property Authorised Investment Funds</strong></td>
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|   | ...

4.2 Pre-sale notifications

Table: contents of the prospectus

4.2.5 R ...

<table>
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<td><strong>Authorised fund</strong></td>
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2 A description of the authorised fund including:

...  

(h) if it is not an umbrella, a statement that it is a feeder UCITS, a feeder NURS, or a fund of alternative investment funds or a property authorised investment fund, where that is the case.

...  

Umbrella Schemes

2B For a UCITS scheme or non-UCITS retail scheme which is an umbrella, a statement detailing whether each specific sub-fund is a feeder UCITS, a feeder NURS, or a fund of alternative investment funds or a property authorised investment fund, as appropriate.

Investment objectives and policy

3 The following particulars of the investment objectives and policy of the authorised fund:

...  

(ca) for an authorised fund that has indicated in its name, investment objectives or fund literature (including in any financial promotions for the fund), through use of descriptions such as ‘absolute return’, ‘total return’ or similar, an intention to deliver positive returns in all market conditions (and where there is no actual guarantee of such returns), additional statements in the authorised fund’s investment objectives specifying:

(i) that capital is in fact at risk;

(ii) the investment period over which the authorised fund aims to achieve a positive return; and

(iii) there is no guarantee that this will be achieved over that specific, or any, time period;

...  

Property Authorised Investment Funds

22A For a property authorised investment fund, a statement that:

(1) it is a property authorised investment fund; [deleted]

...  

...
5.3 Derivative exposure

... 

CESR ESMA guidelines

5.3.11 G Authorised fund managers are advised that both CESR and its successor body, the European Securities and Markets Authority (ESMA) have issued guidelines which, in accordance with the UCITS implementing Directive, authorised fund managers should comply with in applying the rules in this section:

Guidelines: Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS (CESR/10-788)


Guidelines to competent authorities and UCITS management companies on risk measurement and the calculation of global exposure for certain types of structured UCITS (ESMA/2011/112) (ESMA/2012/197)


... 

7.7 UCITS mergers

... 

UCITS Regulations 2011

7.7.6 G ... 

(3) A summary of how the regime for UCITS mergers operates is to be found in COLLG. [deleted]

... 

Information to be given to unitholders

7.7.10 R ...
(3) The information document to be provided to the unitholders of the merging UCITS and the receiving UCITS under (1) must include the following:

…

(c) any specific rights unitholders have in relation to the proposed UCITS merger, including but not limited to:

…

(ii) the right to obtain a copy of the report of the independent auditor or the depositary on request prepared for the purposes of regulation 11 of the UCITS Regulations 2011 or, if applicable, the equivalent national implementing measure of the UCITS Home State;

…

9.4 Facilities in the United Kingdom

…

Documents

9.4.2 R (1) The operator of a recognised scheme must maintain facilities in the United Kingdom for any person, for inspection (free of charge) and for the obtaining (free of charge, in the case of the documents at (c), and (d) and (e), and otherwise at no more than a reasonable charge) of copies in English of:

…

TP 1 Transitional Provisions

TP 1.1

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<td></td>
<td>COLL 4.2.5R (3)(ca)</td>
<td>R</td>
<td>The authorised fund manager need not comply with COLL 4.2.5R(3)(ca) during the application period of this transitional provision, unless it makes any other change to the prospectus of the authorised fund during that period.</td>
<td>From 26 July 2013 to 26 January 2014</td>
<td>26 July 2013</td>
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