

**COLLECTIVE INVESTMENT SCHEMES SOURCEBOOK
(PROPERTY AUTHORISED INVESTMENT FUNDS) INSTRUMENT 2008**

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. This instrument comes into force on 6 June 2008.

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 (Property Authorised Investment Funds) Instrument 2008.

By order of the Board
22 May 2008

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position.

<i>property authorised investment fund</i>	an <i>open-ended investment company</i> to which Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964) applies.
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Annex B

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text.

Table: contents of the instrument constituting the scheme

3.2.6 R ...

...			
7A	...		
		<u>Property Authorised Investment Funds</u>	
<u>7B</u>	<u>For a <i>property authorised investment fund</i>, a statement that:</u>		
	(1)	<u>it is a <i>property authorised investment fund</i>;</u>	
	(2)	<u>no <i>body corporate</i> may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the fund; and</u>	
	(3)	<u>in the event that the <i>authorised fund manager</i> reasonably considers that a <i>body corporate</i> holds more than 10% of the net asset value of the fund, the <i>authorised fund manager</i> is entitled to delay any redemption or cancellation of <i>units</i> in accordance with 18 if the <i>authorised fund manager</i> reasonably considers such action to be:</u>	
		(a)	<u>necessary in order to enable an orderly reduction of the holding to below 10%; and</u>
		(b)	<u>in the interests of the <i>unitholders</i> as a whole.</u>
...			

...

Table: contents of the prospectus

4.2.5 R ...

...	
22	...
<u>Property Authorised Investment Funds</u>	

22A	For a <i>property authorised investment fund</i> , a statement that:		
	(1)	<u>it is a <i>property authorised investment fund</i>;</u>	
	(2)	<u>no <i>body corporate</i> may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the fund; and</u>	
	(3)	<u>in the event that the <i>authorised fund manager</i> reasonably considers that a <i>body corporate</i> holds more than 10% of the net asset value of the fund, the <i>authorised fund manager</i> is entitled to delay any redemption or cancellation of <i>units</i> if the <i>authorised fund manager</i> reasonably considers such action to be:</u>	
		(a)	<u>necessary in order to enable an orderly reduction of the holding to below 10%; and</u>
		(b)	<u>in the interests of the <i>unitholders</i> as a whole.</u>
...			

...

Property Authorised Investment Funds

- 6.2.23 R (1) The *authorised fund manager* of a *property authorised investment fund* must take reasonable steps to ensure that no *body corporate* holds more than 10% of the net asset value of that fund (the “maximum allowable”).
- (2) Where the *authorised fund manager* of a *property authorised investment fund* becomes aware that a *body corporate* holds more than the maximum allowable, he must:
- (a) notify the *body corporate* of that event;
- (b) not pay any income distribution to the *body corporate*; and
- (c) redeem or cancel the *body corporate*’s holding down to the maximum allowable within a reasonable time-frame.
- (3) For the purpose of (2)(c), a reasonable time-frame means the time-frame which the *authorised fund manager* reasonably considers to be appropriate having regard to the interests of the *unitholders* as a whole.
- 6.2.24 G Reasonable steps to monitor the maximum allowable include:
- (1) regularly reviewing the *register*; and

- (2) taking reasonable steps to ensure that *unitholders* are kept informed of the requirement that no *body corporate* may hold more than 10% of the net asset value of a *property authorised investment fund*.

...

Table: contents of the instrument constituting the scheme

8.2.6 R ...

1	...		
<u>Property Authorised Investment Funds</u>			
1A	For a <i>property authorised investment fund</i> , a statement that:		
	(1)	<u>it is a <i>property authorised investment fund</i>;</u>	
	(2)	<u>no <i>body corporate</i> may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the fund; and</u>	
	(3)	<u>in the event that the <i>authorised fund manager</i> reasonably considers that a <i>body corporate</i> holds more than 10% of the net asset value of the fund, the <i>authorised fund manager</i> is entitled to delay any redemption or cancellation of <i>units</i> in accordance with 6A if the <i>authorised fund manager</i> reasonably considers such action to be:</u>	
		(a)	<u>necessary in order to enable an orderly reduction of the holding to below 10%; and</u>
		(b)	<u>in the interests of the <i>unitholders</i> as a whole.</u>
...			
6	...		
<u>Redemption or cancellation of units on breach of law or rules</u>			
6A	<u>A statement that where any holding of <i>units</i> by a <i>unitholder</i> is (or is reasonably considered by the <i>authorised fund manager</i> to be) an infringement of any law, governmental regulation or rule, those <i>units</i> must be redeemed or cancelled.</u>		
...			

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Table: contents of qualified investor scheme prospectus

8.3.4 R ...

...			
15	...		
<u>15A</u>	<u>Property Authorised Investment Funds</u>		
	<u>For a <i>property authorised investment fund</i>, a statement that:</u>		
	<u>(1)</u>	<u>it is a <i>property authorised investment fund</i>;</u>	
	<u>(2)</u>	<u>no <i>body corporate</i> may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the fund; and</u>	
	<u>(3)</u>	<u>in the event that the <i>authorised fund manager</i> reasonably considers that a <i>body corporate</i> holds more than 10% of the net asset value of the fund, the <i>authorised fund manager</i> is entitled to delay any redemption or cancellation of <i>units</i> if the <i>authorised fund manager</i> reasonably considers such action to be:</u>	
		<u>(a)</u>	<u>necessary in order to enable an orderly reduction of the holding to below 10%; and</u>
		<u>(b)</u>	<u>in the interests of the <i>unitholders</i> as a whole.</u>
...			

...

Property Authorised Investment Funds

- 8.5.12A R (1) The *authorised fund manager* of a *property authorised investment fund* must take reasonable steps to ensure that no *body corporate* holds more than 10% of the net asset value of that fund (the “maximum allowable”).
- (2) Where the *authorised fund manager* of a *property authorised investment fund* becomes aware that a *body corporate* holds more than the maximum allowable, he must:
- (a) notify the *body corporate* of that event;
 - (b) not pay any income distribution to the *body corporate*; and

(c) redeem or cancel the *body corporate*'s holding down to the maximum allowable within a reasonable time-frame.

(3) For the purpose of (2)(c), a reasonable time-frame means the time-frame which the *authorised fund manager* reasonably considers to be appropriate having regard to the interests of the *unitholders* as a whole.

8.5.12B G Reasonable steps to monitor the maximum allowable include:

(1) regularly reviewing the *register*; and

(2) taking reasonable steps to ensure that *unitholders* are kept informed of the requirement that no *body corporate* may hold more than 10% of the net asset value of a *property authorised investment fund*.