

COLLECTIVE INVESTMENT SCHEMES (SCHEMES AUTHORISED IN APPROVED COUNTRIES) INSTRUMENT 2024

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137A (The FCA’s general rules);
 - (b) section 137R (Financial promotion rules);
 - (c) section 137T (General supplementary powers);
 - (d) section 139A (Power of the FCA to give guidance);
 - (e) section 238(5) (Restrictions on promotion);
 - (f) section 271E (Power to impose requirements on schemes);
 - (g) section 271F (Application for recognition to the FCA);
 - (h) section 271I (Obligations on operator of a section 271A scheme);
 - (i) section 271J (Provision of information to the FCA);
 - (j) section 271K (Rules as to scheme particulars);
 - (k) section 283 (Facilities and information in the UK);
 - (l) section 347 (The record of authorised persons etc.);
 - (m) section 395 (The FCA’s and PRA’s procedures); and
 - (n) paragraph 23 (Fees) of Part 3 (Penalties and fees) of Schedule 1ZA (The Financial Conduct Authority); and
- (2) the other rule and guidance making powers listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA’s Handbook.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 July 2024.

Amendments to the Handbook

- D. The modules of the FCA’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
Fees manual (FEES)	Annex B
Conduct of Business sourcebook (COBS)	Annex C
Decision Procedure and Penalties manual (DEPP)	Annex D
Collective Investment Schemes sourcebook (COLL)	Annex E

Amendments to the material outside the Handbook

- E. The Enforcement Guide (EG) is amended in accordance with Annex F to this instrument.
- F. The Perimeter Guidance manual (PERG) is amended in accordance with Annex G to this instrument.

Notes

- G. In the Annexes to this instrument, the notes (indicated by “**Note:**” or “*Editor’s note:*”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

- H. This instrument may be cited as the Collective Investment Schemes (Schemes Authorised in Approved Countries) Instrument 2024.

By order of the Board
27 June 2024

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

OFR recognised scheme a *scheme* recognised under section 271A of the *Act* (Schemes authorised in approved countries), or a *sub-fund* recognised under section 271A of the *Act*, as applied by section 271S of the *Act* (Recognition of parts of schemes under section 271A).

Amend the following definitions as shown.

breach in *DEPP*:

...

(10A) a contravention in respect of which the *FCA* is empowered to take action pursuant to section 271R (Public censure) or section 282B (Public censure) of the *Act*;

...

EEA key investor information document a *document* that:

...

(b) complies with the requirements of Commission Regulation (EU) No 583/2010 as it had effect in the *United Kingdom* immediately before *exit day*; and

...

Home State ...

(17) ...

(18) (in relation to the *operator* or *depository* of an *OFR recognised scheme*) the country or territory in which the *operator* or *depository* (as applicable) of the *OFR recognised scheme* is authorised.

(19) (in relation to an *OFR recognised scheme*, and other than a *scheme* in (10)), the country or territory in which the *scheme* is authorised.

- operator*
- (1) (except in *EG*):
- ...
- (ba) ~~(in relation to any other *OEIC* which is an undertaking for collective investment in transferable securities within the meaning of the *UCITS Directive* and which has appointed a *person* to manage the *scheme*) the *manager*; [deleted]~~
- (c) (except in relation to a *recognised scheme*) (in relation to any other *collective investment scheme* that is a *unit trust scheme* with a separate *trustee*) any *person* who, under the *trust deed* establishing the *scheme*, is responsible for the management of the property held for or within the *scheme*;
- (ca) (except in relation to a *recognised scheme*) (in relation to any other *collective investment scheme* that is a contractual scheme) any *person* who, under the constituent instrument, is responsible for the management of the property held for or within the *scheme*;
- (d) (except in relation to a *recognised scheme*) (in relation to any other *collective investment scheme* that is an *open-ended investment company*) that *company* or, if applicable, any *person* who, under the constitution or founding arrangements of the *scheme*, is responsible for the management of the property held for or within the *scheme*;
- (e) (except in relation to a *recognised scheme*) (in relation to any other *collective investment scheme*) any *person* who, under the constitution or founding arrangements of the *scheme*, is responsible for the management of the property held for or within the *scheme*;
- (ea) (in relation to a *recognised scheme*) in accordance with section 237(2) of the *Act*, the legal entity with overall responsibility for the management and performance of the functions of the *scheme*;
- ...
- ...
- public censure*
- ...
- (5) a statement published under section 271R (Public censure) or section 282B (Public censure) of the *Act*.

*recognised
scheme*

- (1) ~~(other than in LR) a scheme that is:~~
- ~~{deleted}~~
- (b) ~~{deleted}~~
- (c) ~~recognised under section 272 of the Act (Individually recognised overseas schemes); or~~
- (d) ~~(in COBS 14 and for the purposes of the definitions of *non-mainstream pooled investment and packaged product*) an EEA UCITS scheme recognised under Part 6 of The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019.~~
- (2) ~~(in LR) a scheme recognised for the purpose of part XVII of the Act.~~

Annex B

Amendments to the Fees manual (FEES)

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

3 Application, Notification and Vetting Fees

...

3.2 Obligation to pay fees

...

3.2.7 R Table of application, notification, vetting and other fees payable to the FCA

Part 1A: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable (£) by reference to the pricing category in FEES 3 Annex 1AR.	Due date
...		
(da) <i>Persons</i> making an application or notification in relation to applications set out in FEES 3 Annex 2R: (i) authorisation order <u>an application for or recognition an order declaring a scheme to be recognised under section 271A or section 272 of the Act of a collective investment scheme;</u> ...	Category applicable to the application or notification set out in FEES 3 Annex 2R	On or before the date the application or notification is made
...		

...

...

3 Annex 2R Application and notification fees payable in relation to collective investment schemes, recognised schemes, LTIFs, money market funds and AIFs marketed in the UK

Legislative provision	Nature and purpose of fee	Payable by	Applicable pricing category in FEES 3 Annex 1AR <u>or amount of fee (£)</u>	Umbrella factor (note 1)
...				
Part 2 (Application fees payable for firms to be subject to <i>COLL</i>)				
(1) Regulation 12 of the <i>OEIC Regulations</i> , application for order declaring a <i>scheme</i> to be an <i>ICVC</i>	On application for an order, where the <i>scheme</i> is a:	An applicant		2
	<i>UCITS scheme</i>		<u>Category 4</u>	
	<i>Non-UCITS retail scheme</i>		<u>Category 4</u>	
	<i>Qualified investor scheme</i>		<u>Category 5</u>	
	<i>Long-term asset fund</i>		<u>Category 5</u>	
(2) Section 242 of the <i>Act</i> , application for order declaring a <i>scheme</i> to be an <i>AUT</i>	On application for an order declaring a <i>scheme</i> to be an <i>AUT</i> , where the <i>scheme</i> is a:	An applicant		2
	<i>UCITS scheme</i>		<u>Category 4</u>	

<p>(3) Section 261C of the Act, application for order declaring a scheme to be an ACS, whether it is established as a co-ownership scheme or a limited partnership scheme</p> <p>(1), (2) and (3) also apply to funds where an application is also made to be authorised under the Money Market Funds Regulation</p>	<p><i>Non-UCITS retail scheme</i></p>		<p><u>Category 4</u></p>	
	<p><i>Qualified investor scheme</i></p>		<p><u>Category 5</u></p>	
	<p><i>Long-term asset fund</i></p>		<p><u>Category 5</u></p>	
<p>Section 261C of the Act</p> <p>This section also applies to funds where an application is also made to be authorised under the Money Market Funds Regulation</p>	<p>On application for an order declaring a scheme to be an ACS, whether it is established as a co-ownership scheme or a limited partnership scheme, where the scheme is a:</p>	<p>An applicant</p>		<p>2</p>
	<p><i>UCITS scheme</i></p>		<p><u>Category 4</u></p>	
	<p><i>non-UCITS retail scheme</i></p>		<p><u>Category 4</u></p>	

	<i>qualified investor scheme</i>		<u>Category 5</u>	
	<i>Long-term asset fund</i>		<u>Category 5</u>	
<u>Section 271A of the Act</u>	<u>On application for an order declaring a scheme to be recognised, where the scheme was:</u>	<u>An applicant</u>		
	<u>recognised under regulation 62 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 immediately before the application</u>		<u>£2,720</u>	<u>2</u>
	<u>not recognised under regulation 62 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 immediately before the application</u>		<u>Category 4</u>	<u>2</u>
<u>Section 272 of the Act</u>	<u>On application for an order declaring a scheme to be recognised</u>	<u>An applicant</u>		

	where the <i>scheme</i> is:			
	a <i>non-UK AIF</i> or <i>AIF</i> equivalent to a <i>UK UCITS</i> , <i>non-UCITS retail scheme</i> , a <i>qualified investor scheme</i> or a <i>long-term asset fund</i>		<u>Category 6</u>	2
	Where funds of any kind set out in Part 2 exist prior to 21 July 2018, a flat fee will be payable on an application for authorisation under the <i>Money Market Funds Regulation</i>		<u>Category 1</u>	
...				

...

4 Periodic fees

...

4 Annex 4R Periodic fees in relation to collective investment schemes, recognised schemes, AIFs marketed in the UK, small registered UK AIFMs and money market funds payable for the period 1 April 2024 to 31 March 2025

Part 1 - Periodic fees payable

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fund factor	Fee (£)
-------------	---------------	---------------------------------	-------------	---------

ICVC, AUT, ACS, LTIFs, Money market funds with effect from 21 July 2018, <u>schemes</u> <u>recognised</u> <u>under section</u> <u>271A of the</u> <u>Act</u>	...	...	...	...
...				

...

~~Schemes set up under section 264 of the Act are charged according to the number of funds or sub-funds which a firm is operating and marketing into the UK as at 31 March immediately before the start of the period to which the fee applies. For example, for 2010/11 fees a reference to 31 March means 31 March 2010.~~

Umbrellas recognised under sections 271A or 272 of the Act are charged according to the number of sub-funds which are recognised under section 271A or 272 of the Act (subject to the note below) as at 31 March immediately before the start of the period to which the fee applies. For example, for 2024/25 fees, a reference to 31 March means 31 March 2024.

In the event that an umbrella were to have both sub-funds that are recognised under section 271A of the Act and sub-funds that remain recognised under regulation 62 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 for the time being, the calculation of the periodic fees charged to the umbrella will take into account all of those sub-funds. For the avoidance of doubt, in this scenario only one fee will be payable for both FEES 4 Annex 4R Part 1 and FEES 4A Annex 2R Part 1 purposes.

...

...

4A Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – periodic fees

...

4A
Annex
2R

TPR funds periodic fees for the period from 1 April 2024 to 31 March 2025

Part 1

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fee (£)
<i>EEA UCITS scheme</i> recognised under Part 6 of The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2018
<p>Note:</p> <p>Schemes <i>Schemes</i> are charged according to the number of funds <i>funds</i> or sub-funds <i>sub-funds</i> which a TP firm <i>TP UCITS qualifier</i> is operating and marketing in the UK <i>UK</i> as at 31 March immediately before the start of the period to which the fee applies. For example, for 2024/2025 fees a reference to 31 March means 31 March 2024.</p> <p><u>In the event that an <i>umbrella</i> were to have both <i>sub-funds</i> that are recognised under section 271A of the <i>Act</i> and <i>sub-funds</i> that remain recognised under regulation 62 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 for the time being, the calculation of the periodic fees charged to the <i>umbrella</i> will take into account all of those <i>sub-funds</i>. For the avoidance of doubt, in this scenario only one fee will be payable for both <i>FEES</i> 4 Annex 4R Part 1 and <i>FEES</i> 4A Annex 2R Part 1 purposes.</u></p>			

...

Annex C

Amendments to the Conduct of Business sourcebook (COBS)

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

Insert the following new section, COBS 4.15 (Promotion of OFR recognised schemes), after COBS 4.14 [deleted]. The text is not underlined.

4.15 Promotion of OFR recognised schemes

Application

- 4.15.1 R (1) Subject to (2), this section applies to a *firm* in relation to the *communication* or *approval* of a *financial promotion* relating to an *OFR recognised scheme*.
- (2) This section does not apply to the extent that the *financial promotion* is an *excluded communication*.

Financial promotions of OFR recognised schemes

- 4.15.2 R A *firm* must not *communicate* or *approve* a *financial promotion* relating to an *OFR recognised scheme* unless the *financial promotion* clearly states that:
- (1) the *scheme* is authorised *overseas*, but not in the *United Kingdom*;
- (2) (subject to *COBS 4.15.3R*) the *Financial Ombudsman Service* is unlikely to be able to consider *complaints* related to the *scheme*, its *operator* or its *depository*;
- (3) any claims for losses relating to the *operator* and the *depository* of the *scheme* are unlikely to be covered under the *compensation scheme*; and
- (4) a prospective investor should consider getting financial advice before deciding to invest and should see the *prospectus* of the *scheme* for more information.
- 4.15.3 R To the extent that the *Financial Ombudsman Service* is likely to be able to consider a *complaint* relating to the *operator* or the *depository* of a particular *recognised scheme*, the *financial promotion* must contain a clear statement to that effect, and to that extent only *COBS 4.15.2R(2)* does not apply.
- 4.15.4 G In relation to *COBS 4.15.3R*, and by way of example, the *operator* of a *recognised scheme* may be a *VJ participant*, and so it may be possible for

a *complaint* against the *operator* to be dealt with under the *Voluntary Jurisdiction*.

Amend the following as shown.

14 Providing product information to clients

...

14.2 Providing product information to clients

...

The provision rules for products other than PRIIPs

14.2.1 R A *firm* that sells, or (where relevant) gives effect to:

...

(7) a *unit* in a *UCITS scheme*, or in an *EEA UCITS scheme* which is a *recognised scheme* (other than a *scheme* in (7A)), to a *client*, must:

...

(b) where the *client* is a *retail client*, provide separately (unless already provided) the information required by *COBS* 13.3.1R (2) (General requirements) and, if that *client* is present in the *United Kingdom*, the information required by (5A)(b)-; and

(7A) a *unit* in an *OFR recognised scheme* to a *client*, must provide the *documents* and information specified in *COBS* 14.2.1-BR.

...

14.2.1-A G ...

14.2.1-B R For the purpose of *COBS* 14.2.1R(7A), in relation to a *unit* in a *scheme* which is an *OFR recognised scheme*, the specified *documents* and information are as follows:

(1) Where the *scheme* is an *EEA UCITS scheme*, the *firm* must provide a copy of the *scheme's EEA key investor information document* to that *client*.

(2) Where the *client* is a *retail client*, the *firm* must provide separately (unless already provided):

(a) the information required by *COBS* 13.3.1R(2)(a) and (b) (General requirements);

- (b) if the *client* is present in the *United Kingdom*, the information required by *COBS* 14.2.1R(5A)(b); and
- (c) information that clearly explains:
 - (i) whether the *Financial Ombudsman Service* is likely to be able to consider *complaints* against the *scheme*, its *operator* or its *depository*; and
 - (ii) what arrangements, if any, exist that would enable investors in the *United Kingdom* to have a complaint against the *scheme*, its *operator* or its *depository* considered by an alternative dispute resolution mechanism in the relevant *Home State*;
 - (iii) that the activities of the *scheme's operator* and its *depository* are unlikely to be covered by the *compensation scheme* and investors might not be protected under the *regulatory system* if either *person* should become unable to meet its liabilities to them; and
 - (iv) what arrangements, if any, exist in the *Home State(s)* of the *scheme's operator* or its *depository* for the payment of compensation to investors in the *United Kingdom* if either *person* should become unable to meet its liabilities to them.

14.2.1-C G A *firm* should consider including further information likely to be useful to investors (including the information set out in *COLL* 9.5.7G(2)). Where the *documents* and information specified in *COBS* 14.2.1-BR are provided electronically, such information could be provided in the *document* itself or via a hyperlink to a website or another *document*.

...

Annex D

Amendments to the Decision Procedure and Penalties manual (DEPP)

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

2 Statutory notices and the allocation of decision making

...

2.5 Provision for certain categories of decision

...

Modified procedures in collective investment scheme and certain other cases

...

2.5.13 G The decisions referred to in *DEPP* 2.5.12 G are:

...

(1A) ...

(1B) the decision to give a *supervisory notice* pursuant to section 271M(3), (6) or (7) of the Act;

...

(4B) ...

(4C) the decision to give a *warning notice* or *decision notice* pursuant to section 271N(2) or (3), or 271R(3) or (4)(a) of the Act.

...

2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

...

Section of the Act	Description	Handbook reference	Decision maker
...			
269(1)/(2)	...		
<u>271H(2)/(3)</u>	<u>when the FCA is proposing or deciding to refuse an</u>	<u>COLL 9</u>	<u>Executive procedures</u>

	<u>application for recognition of a <i>collective investment scheme</i> under section 271A</u>		
<u>271N(2)/(3)(a)</u>	<u>when the <i>FCA</i> is proposing or deciding to revoke an order made under section 271A in relation to an <i>OFR</i> recognised scheme</u>	<u>COLL 9</u>	<u><i>Executive procedures</i></u>
<u>271O(4)/(5)(a)</u>	<u>when the <i>FCA</i> is proposing or deciding to refuse a request for the revocation of an order under section 271A in relation to an <i>OFR</i> recognised scheme</u>	<u>COLL 9</u>	<u><i>Executive procedures</i></u>
<u>271R(3)/(4)(a)</u>	<u>when the <i>FCA</i> is proposing or deciding to publish a statement censuring the operator of an <i>OFR</i> recognised scheme</u>	<u>COLL 9</u>	<u><i>Executive procedures</i></u>
...			

...

2 Annex 2 Supervisory notices

Section of the Act	Description	Handbook reference	Decision maker
...			
268(3)/(7)(a) <u>268(3)/(7)(a)</u> or (9)(a) (as a result of (8)(b)/(13))	...	...	...
<u>271M</u>	<u>when the <i>FCA</i> gives a direction under section 271L</u>	<u>COLL</u>	<u><i>Executive procedures</i></u>
...			

...

...

6A The power to impose a suspension, restriction, condition, limitation or disciplinary prohibition

...

6A.5 Collective investment schemes: the interaction between the power to suspend or revoke recognition and the power to issue public censures

- 6A.5.1 G Under sections 271L, 271N, 271R, 279, 281 and 282B of the *Act*, the *FCA* can suspend or revoke recognition of an *OFR recognised scheme* or a *scheme* recognised under section 272 and/or issue the *operator* with a *public censure*. Following the approach in *DEPP* 6A.4.1G and *DEPP* 6A.4.2G(3), where the *FCA* considers it appropriate to impose both sanctions, it will decide whether the combined impact on the *operator* is likely to be disproportionate in respect to the *breach* and the deterrent effect of the sanctions.

Annex E

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

- 7 Suspension of dealings, termination of authorised funds and side pockets**
- ...
- 7.6 Schemes of arrangement**
- ...
- Schemes of arrangement: requirements
- 7.6.2 R ...
- (2) For a *UCITS scheme* or a *sub-fund* of a *UCITS scheme*, (1) applies as if the reference to a *regulated collective investment scheme* ~~also~~ excludes any *recognised scheme* which is not authorised under the *UCITS Directive* in an *EEA State* ~~but was not a ‘recognised scheme’ under section 264 of the Act (Schemes constituted in other EEA States) immediately before IP completion day.~~
- ...
- (6) ...
- (c) ...
- (7) If it is proposed that the *scheme property* of an *authorised fund* or a *sub-fund* of an *umbrella* should become the property of a *recognised scheme*, the *authorised fund manager* of the *authorised fund* or *sub-fund* must ensure that the *document* it provides to *unitholders* setting out the proposal contains a prominent statement of the matters required to be disclosed by *COLL 9.5.5R* and *COLL 9.5.6R* (Preparation and maintenance of a prospectus relating to an OFR recognised scheme).
- ...
- 9 Recognised schemes**
- 9.1 Application and general information**
- Application

- 9.1.1 R This chapter applies as follows:
- (1) COLL 9.3 and COLL 9.4 apply to operators of ~~recognised schemes~~ schemes applying for recognition under section 272 of the Act and to operators of ~~schemes~~ making a notification in respect of ~~them~~ such schemes under Chapter V of Part XVII sections 277 and 277A of the Act (~~Recognised overseas schemes~~).
 - (2) COLL 9.5 applies to operators of schemes applying for recognition as OFR recognised schemes and to operators making a notification in respect of such schemes under sections 271I and 271J of the Act.

Purpose

- 9.1.2 G (1) This chapter applies in relation to 2 types of *recognised scheme*:
- (a) a *scheme* which is individually recognised under section 272 of the Act; and
 - (b) an *OFR recognised scheme*, which is a *scheme* recognised under section 271A of the Act.
- (2) If a *scheme* is eligible to apply for recognition as an *OFR recognised scheme*, it may not apply for recognition under section 272 of the Act, within (1)(a).
- (3) This chapter enables current and potential operators of *recognised schemes* to know what information and *documents* the FCA ~~wish to receive~~ requires to enable it to ~~consider~~ determine whether to recognise the *scheme* under the Act for *marketing* in the United Kingdom.
- (4) This chapter also sets out requirements relating to:
- (a) the preparation and maintenance of a *prospectus* for a *recognised scheme*; and
 - (b) the facilities that an *operator* of a *recognised scheme* must provide to enable current and potential participants in the *scheme* who are present in the United Kingdom to obtain information and exercise their rights without undue difficulty or expense.
- 9.1.2A G The effect of GEN 2.2.32R to GEN 2.2.36G and COLL TP 1.1R(65) is that the rules in COLL 9.4 on facilities continue to apply to a *TP UCITS qualifier* in relation to a *scheme* that is a *recognised scheme* under Part 6 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, until such time as that *scheme* ceases to be a *recognised scheme* under those Regulations.

General information

- 9.1.3 G ~~Further information about notifications for recognition is contained in COLLG.~~ The FCA website sets out further information about which categories of overseas collective investment scheme are eligible to apply to the FCA to be recognised schemes under sections 271A and 272 of the Act, how to apply for recognition, and how to give notifications concerning recognised schemes.
- <https://www.fca.org.uk/firms/authorised-recognised-funds/apply-fund-recognition>

...

9.3 Section 272 recognised schemes

...

Additional information required in the prospectus for an application under section 272

- 9.3.2 R ~~An operator of a recognised scheme~~ scheme applying for recognition under section 272 of the Act must ensure the *prospectus*:

...

Preparation and maintenance of prospectus

- 9.3.3 R (1) ~~An operator of a recognised scheme~~ scheme recognised under section 272 of the Act must comply with the requirements set out in *COLL* 4.2 (Pre-sale notifications).
- (2) ~~Where a recognised scheme~~ Where a scheme recognised under section 272 of the Act is managed and authorised in Guernsey, Jersey, or the Isle of Man, the *prospectus* need not comply with the requirements of *COLL* 4.2.5R (Table: contents of prospectus), providing it contains corresponding matter required under the law in its home territory.

Preparation of a key information document in accordance with the PRIIPs regulation

- 9.3.4 G ...
- (3) ~~As a result, when a recognised scheme~~ As a result, when a scheme recognised under section 272 of the Act is made available to *retail clients* in the *United Kingdom* the *operator* must draw up a *key information document* in accordance with the *PRIIPs Regulation*, unless the *operator* of such a *scheme* is otherwise exempt from such a requirement under the *PRIIPs Regulation* for the time being.

...

9.4 Facilities in the United Kingdom for schemes recognised under section 272 of the Act

General

- 9.4.1 R (1) The *operator* of a ~~*recognised scheme*~~ *scheme recognised under section 272 of the Act* must maintain facilities in the *United Kingdom* in order to satisfy the requirements of *COLL 9.4.2R* to *COLL 9.4.6R*.

...

Documents

- 9.4.2 R (1) The *operator* of a ~~*recognised scheme*~~ *scheme recognised under section 272 of the Act* 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), (d) and (e), and otherwise at no more than a reasonable charge) of copies in English of:

...

...

...

Insert the following new section *COLL 9.5* (OFR recognised schemes) after *COLL 9.4* (Facilities in the United Kingdom). The text is not underlined.

9.5 OFR recognised schemes

Information and documents to be provided in relation to an application for recognition under section 271A

- 9.5.1 G (1) Under the *Act*, the *FCA* has the power to direct how an application for recognition of a *scheme* under section 271A of the *Act* must be made. The *FCA* also has the power to specify that the application contains, or is accompanied by, such information as the *FCA* may reasonably require for the purpose of determining it.
- (2) The application form for recognition of a *scheme* under section 271A of the *Act*, and guidance regarding *documents* and information which must be contained in (or provided together with) the application form, are available on the *FCA* website.

<https://www.fca.org.uk/firms/overseas-funds-regime-update-firms>

- (3) The application form requires the *operator* that is applying for recognition of the *scheme* to provide *documents* and information falling within the following categories:
- (a) the identity of the *scheme*;
 - (b) the *scheme's* profile;
 - (c) the *scheme's* fees and charges;
 - (d) characteristics of the *scheme's units*;
 - (e) parties connected to the *scheme*; and
 - (f) the proposed marketing and distribution arrangements for the *scheme*.

- 9.5.2 G The *FCA* considers that the *documents* and information falling within the categories set out in *COLL* 9.5.1G(3) are reasonably required for the purposes of:
- (1) determining whether the conditions for recognition under section 271G(2) (Determination of applications) of the *Act* are met;
 - (2) complying with its duty under section 271G(4) (Determination of applications) of the *Act* to refuse an application for recognition if the *FCA* considers it desirable to do so, in order to protect the interests of *participants* or potential *participants* in the *scheme* in the *United Kingdom*; and
 - (3) complying with its duty to maintain a record of all *recognised schemes* under section 347 (The record of authorised persons etc.) of the *Act*, which is made public in the *Financial Services Register*.
- 9.5.3 D Any *documents* accompanying an application for recognition of a *scheme* under section 271A must be:
- (1) in English or be accompanied by a translation in English; and
 - (2) certified by the *operator* to be true copies of the originals.

Recognition of parts of a scheme

- 9.5.4 G (1) Section 271S of the *Act* (Recognition of parts of schemes under section 271A) sets out that section 271A of the *Act* applies in relation to part of a *collective investment scheme* as it applies in relation to such a *scheme*. In our view, this means that the *FCA* is able to recognise one or more *sub-funds* in an *umbrella*, without necessarily recognising all of them.

- (2) As a result, references to a *scheme* in *COLL 9.5.9G* to *COLL 9.5.10G* and to an *OFR recognised scheme* in Part 17 of the Act include references to a *sub-fund* in an *umbrella*.

Preparation and maintenance of a prospectus relating to an OFR recognised scheme

- 9.5.5 R (1) The *operator* of an *OFR recognised scheme* must comply with the following requirements in *COLL 4.2* (Pre-sale notifications):
- (a) *COLL 4.2.2R(1)*;
 - (b) *COLL 4.2.2R(2)(b)* to (d);
 - (c) *COLL 4.2.3R*;
 - (d) *COLL 4.2.3AR*; and
 - (e) *COLL 4.2.4R*.
- (2) The *operator* of an *OFR recognised scheme* must ensure that the *prospectus* of the *scheme* contains the information required by *COLL 4.2.5R* (Table: contents of the prospectus) to the extent that this information would be compatible with the basis upon which the *prospectus* is approved in the *scheme's Home State*.
- (3) In relation to (2), information is to be treated as incompatible with the basis upon which the *prospectus* is approved in the *scheme's Home State* if adding it to the *prospectus* conflicts with an existing statement that has already been approved by the *regulatory body* of the *scheme's Home State*.
- (4) For the purposes of (1) and (2), as appropriate, a reference in *COLL 4.2* to:
- (a) an *authorised fund manager* is to be read as a reference to an *operator* of an *OFR recognised scheme*; and
 - (b) an *authorised fund*, *AUT*, *ACS*, *ICVC* and *UCITS scheme* is to be read as a reference to an *OFR recognised scheme*.
- 9.5.6 R The *operator* of an *OFR recognised scheme* must ensure that the *prospectus* of the *scheme*:
- (1) explains how investors in the *United Kingdom* can make a complaint about the *scheme*, its *operator* or its *depository*;
 - (2) (a) explains whether the activities of the *operator* and *depository* of the *scheme* are covered by the *Financial Ombudsman Service* and the *compensation scheme*; and

- (b) where they are not covered, contains a clear warning explaining that a *UK investor* may not be able to seek redress under the *UK regulatory system* for a complaint, or compensation for a financial loss suffered as a result of the *operator* or *depository* being unable to meet their liabilities to *unitholders*;
 - (3) explains whether or not an investor in the *United Kingdom* has the right to access:
 - (a) an alternative dispute resolution mechanism in the *Home State(s)* of the *scheme*, its *operator* or its *depository* in order to resolve a complaint; or
 - (b) a compensation scheme in the *Home State(s)* of the *operator* or the *depository* that can pay compensation to *unitholders* for losses incurred where those *persons* are unable to meet their liabilities to *unitholders*; and
 - (4) explains, if the investor has the rights described in (3), how they may be exercised, including how further information may be obtained.
- 9.5.7 G (1) If the investor has any rights described in *COLL 9.5.6R(3)*, *operators* of *OFR recognised schemes* should consider including further information likely to be useful to investors.
- (2) Further information likely to be useful to investors would at least include details as to:
- (a) whether investors are able to make a complaint or request for compensation in English to the respective bodies referred to in *COLL 9.5.6R(3)*;
 - (b) whether there is a cost to make a complaint or request for compensation to the respective bodies referred to in *COLL 9.5.6R(3)*;
 - (c) whether investors would be exposed to any requirement to pay costs by either of the respective bodies referred to in *COLL 9.5.6R(3)* – for example, if their complaint or request for compensation should be unsuccessful;
 - (d) what the maximum financial limits are for awards of redress or compensation by the respective bodies referred to in *COLL 9.5.6R(3)*; and
 - (e) whether the decision by the body referred to in *COLL 9.5.6R(3)(a)*, such as the amount of redress that should be paid

in relation to the complaint, is binding on the *operator* or *depository* (as applicable) if accepted by the investor.

- (3) Where the *prospectus* of the *scheme* is provided electronically, such further information could be provided via a hyperlink to a website or another *document*.

Guidance on the UK retail disclosure regime

9.5.8 G [to follow]

Obligations on an operator of an OFR recognised scheme to notify the FCA

- 9.5.9 G (1) Section 271I(1) of the *Act* (Obligations of an operator of a section 271A scheme) requires an *operator* of an *OFR recognised scheme* to notify the *FCA* if it has contravened, or expects to contravene, a requirement imposed on it by or under the *Act*.
- (2) Section 271I(2) of the *Act* requires an *operator* of an *OFR recognised scheme* to notify the *FCA* of certain changes relating to the *scheme*, such as changes to the *operator* or *depository*. This should be kept in mind when considering any proposed change.
- (3) Section 271I(3) of the *Act* requires a notification under (1) or (2) to be made in writing as soon as reasonably practicable.
- 9.5.10 G (1) Section 271J of the *Act* provides that the *operator* of an *OFR recognised scheme* must provide to the *FCA* such information as the *FCA* may direct, and in such form and at such times as it may direct. The *FCA* will publish such directions on the *FCA* website.
- (2) The information must be provided as soon as reasonably practicable, in the manner directed on the website. In a few cases, listed on the website, the *FCA*'s direction requires the *operator* to notify the *FCA* by email at the address specified for that purpose. In all other cases, the information should be provided by submitting a standard form.
- 9.5.11 D The *operator* of an *OFR recognised scheme* must notify the *FCA* as soon as reasonably practicable when the *operator* of an *OFR recognised scheme*:
- (1) decides to terminate or wind up the *scheme*, or becomes aware that the *scheme* is or will be terminated or wound up; or
- (2) decides to cease marketing the *scheme* in the *United Kingdom*.
- 9.5.12 G Where *COLL* 9.5.11D(2) applies, the *operator* should request the *FCA* to withdraw recognition as an *OFR recognised scheme*. The *operator* should ensure that *UK* investors are given adequate written notice of the decision before the date on which the request takes effect.

Facilities for investors in the United Kingdom for OFR recognised schemes

- 9.5.13 R (1) The *operator* of an *OFR recognised scheme* must maintain facilities for any *person* in the *United Kingdom* to:
- (a) inspect (free of charge) up-to-date copies in English of:
 - (i) the *instrument constituting the fund*, as amended from time to time;
 - (ii) the *prospectus*;
 - (iii) the latest annual report and (if more recent) the half-yearly report; and
 - (iv) the *key investor information document* or equivalent *disclosure document*;
 - (b) obtain paper copies of any of the *documents* in (a), at no more than a reasonable charge in the case of (i), and free of charge in the other cases; and
 - (c) obtain the latest *prices of units* in the *scheme*, or information about where they can be obtained free of charge.
- (2) The *operator* of an *OFR recognised scheme* must maintain facilities for any *unitholder* of the *scheme* in the *United Kingdom* to:
- (a) submit orders to subscribe for and *redeem units* in the *scheme* in accordance with the terms of its *prospectus*;
 - (b) obtain information about how any payment due to the *unitholder* will be made;
 - (c) provide information to enable the *operator* to maintain a record of each *unitholder's* full name and address and any other required details; and
 - (d) submit a complaint about the operation of the *scheme* to the *operator* and obtain information about arrangements for the resolution of the complaint.
- 9.5.14 R (1) The *operator* may provide the facilities in *COLL 9.5.13R* through an electronic medium where:
- (a) the *prospectus* states that the *operator* will normally communicate with all *unitholders* and their representatives through such a medium;
 - (b) *unitholders* have consented to the *operator* communicating with them in this way; and

- (c) all services to *unitholders* are provided in English, free of charge.
- (2) If the conditions in (1)(a) and (b) are not fulfilled, the *operator* may provide the facilities in *COLL 9.5.13R* through an electronic medium at the *unitholder's* choice but must additionally provide those facilities at a place in the *United Kingdom* which is open to members of the public during business hours.
- (3) The *operator* may use its own place of business in the *United Kingdom* if it has one, or else it must appoint a *person* with a place of business in the *United Kingdom* to provide the facilities on its behalf.
- (4) The *prospectus* of the *scheme* must state the address of the place at which facilities are provided or explain how they can be accessed through an electronic medium.
- (5) In relation to notices and *documents* sent by *operators* and *depositories* to and from the *United Kingdom*, *COLL 4.4.12R* (Notice to unitholders) and *COLL 4.4.13R* (Other notices) apply.
- 9.5.15 G (1) Under section 271F(1)(b) of the *Act*, the *operator* of an *OFR recognised scheme* must notify the *FCA* of an address in the *United Kingdom* at which notices and other *documents* may be served on the *operator*. This may be the same address specified for the purpose of *COLL 9.5.14R(2)*, or another address.
- (2) Where the *operator* of an *OFR recognised scheme* intends to *communicate a financial promotion* relating to the *scheme*, the *financial promotion* will need to be *approved* unless the *financial promotion* benefits from an exemption in the *Financial Promotion Order*.
- (3) If the *financial promotion* does not benefit from an exemption in the *Financial Promotion Order*, an *authorised person* will only be able to *approve a financial promotion* relating to an *OFR recognised scheme* if:
- (a) that *person* is a *permitted approver* in relation to the *financial promotion*; or
- (b) an *approver permission exemption* applies.
- (4) Where a *financial promotion* relating to an *OFR recognised scheme* needs to be *approved* by an *authorised person*, that *authorised person* does not need to be the *person* who provides *unitholder* facilities, or whose address is notified for the service of notices.

Amend the following as shown.

...

TP 1 Transitional Provisions

TP 1.1

(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
...					
64	...	...	...	...	...
<u>Amendments made by the Collective Investment Schemes (Schemes Authorised in Approved Countries) Instrument 2024</u>					
<u>65</u>	<u>The amendments to COLL 9.4</u>	<u>R</u>	<u>The amendments to the <i>rules</i> specified in column (2) do not apply to a <i>TP UCITS</i> qualifier in relation to a <i>scheme</i> recognised under Part 6 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019.</u>	<u>From 31 July 2024</u>	<u>31 July 2024</u>

Annex F

Amendments to the Enforcement Guide (EG)

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

7 Financial penalties and other disciplinary sanctions

7.1 The FCA's use of sanctions

...

7.1.2 The FCA has the following powers to impose sanctions.

(1) It may publish a statement:

...

(eca) against an *operator* of a *scheme* recognised under section 271A or section 272 of the Act;

...

...

...

14 Collective Investment Schemes

...

14.4 Exercise of the powers in respect of recognised schemes: sections 271L, 271N, 271R, 279, 281 and 282B of the Act – powers to revoke recognition of schemes recognised under ~~section~~ sections 271A or 272, or issue the operators of such schemes with a public censure: the FCA's policy

...

Annex G

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text.

9 Meaning of open-ended investment company

9.1 Application and Purpose

...

Other guidance that may be relevant

9.1.4 ...

9.1.5 G *Open-ended investment companies constituted overseas that are seeking to market or promote their units to the general public in the United Kingdom, should refer to COLL 9 (Recognised schemes) for guidance on the requirements that apply to OFR recognised schemes and schemes recognised under section 272 of the Act (Individually recognised schemes).*