

Policy Statement

PS24/7

Implementing the Overseas Funds Regime

Feedback to CP23/26 and final rules

July 2024

This relates to

Consultation Paper 23/26 which is available on our website at www.fca.org.uk/publications

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Chapter 1

Summary

- 1.1** This Policy Statement (PS) sets out our response to the feedback we received to Consultation Paper CP23/26, proposing rules and guidance necessary to implement the Overseas Funds Regime (OFR). It details the final rules and guidance that we are introducing following the consultation.
- 1.2** Many of the funds offered to investors in the UK are from outside the country. In 2021, the Government legislated – through changes to the Financial Services and Markets Act 2000 (FSMA) – to create a new streamlined process to recognise overseas collective investment schemes, the OFR. The regime is based on principles of equivalence: jurisdictions can be approved by the Government if they offer adequate co-operation arrangements between the FCA and relevant national competent authorities (NCAs), and if they provide equivalent investor protection outcomes to comparable UK- authorised schemes.
- 1.3** On 30 January 2024, the UK Government announced the first equivalence decision, in relation to Undertakings for Collective Investment in Transferable Securities (UCITS) established and authorised in states in the European Economic Area (EEA), including European Union (EU) member states. The Government has granted equivalence in respect of EEA UCITS (except for money-market funds), meaning that they can apply to the FCA for recognition to market to UK retail investors. Many of these UCITS are currently accessing the UK market through the Temporary Marketing Permissions Regime (TMPR). The TMPR is currently due to end in December 2025, but the Government can extend it further.
- 1.4** In May 2024, together with HM Treasury, we published a [roadmap](#) setting out the key dates and processes for operators of overseas funds to apply for OFR recognition. We also published a [webpage](#) setting out when and how operators in scope of the Government’s decision should apply for recognition. We are working to open the gateway for EEA UCITS to apply for OFR recognition later this year.
- 1.5** If the UK Government decides to make any further equivalence determinations under the OFR, we will also be able to recognise those funds in the future.
- 1.6** Our consultation covered proposed changes to our Handbook so that overseas funds can be recognised following any equivalence determinations. In the Handbook we call these ‘OFR recognised schemes’, but in this PS we will use the term ‘OFR funds’.
- 1.7** We consulted on:
- Information that OFR fund operators will need to submit to inform our recognition decision
 - Ongoing change notification requirements for OFR funds
 - Disclosure requirements for OFR funds to inform investors about the possible lack of access to the UK Financial Ombudsman Service (FOS) or Financial Services

Compensation Scheme (FSCS), and whether any overseas compensation or alternative dispute resolution schemes are available

- Procedures for suspending and revoking recognition of an OFR fund or censuring its operator or depositary
- Providing UK facilities for investors to easily receive information and provide instructions concerning their investment

Who this affects

1.8 This policy statement will be primarily of interest to:

- EEA UCITS and the management companies of such funds that currently market to UK investors or plan to do so
- Distributors of EEA UCITS marketed to UK investors
- Investment advisers
- Firms providing facilities to UK investors in EEA UCITS
- Firms approving financial promotions on behalf of EEA UCITS
- Fund and Asset Management trade associations
- EEA and EU National Competent Authorities (NCAs)
- Professional services firms providing legal and support services to operators of EEA UCITS

The wider context of this policy statement

Our consultation

1.9 The OFR will be a new gateway through which certain collective investment schemes, domiciled in jurisdictions deemed to be equivalent by the Government, will be able to market to UK retail investors.

1.10 The rules will support our objective of consumer protection. In considering requirements for OFR funds, we have tried to balance market access with appropriate levels of consumer protection. If we are not effective in efficiently operationalising the regime, consumer choice could be reduced in the long term as the UK market could be too difficult for quality overseas funds to access. To maintain confidence in the OFR and our investment funds sector, our regime needs to allow the FCA to collect enough information to identify any funds with features that would not be appropriate for the UK retail market.

1.11 Our approach will be particularly relevant for funds currently in the TMPR. To continue marketing in the UK, they will need to apply for recognition under the OFR when directed by the FCA.

Competition

- 1.12** The final rules set out in this PS advance the FCA's operational objective of promoting effective competition in the interests of consumers. The OFR will allow retail investors in the UK to continue to access and choose from a wide range of funds, subject to the Government determining that the overseas regulatory regimes offer equivalent investor protection outcomes.

Secondary international competitiveness and growth objective

- 1.13** The final rules also advance the FCA's secondary objective of facilitating the international competitiveness of the UK economy and its growth. Our rules will apply to funds domiciled in jurisdictions granted equivalence by the Government that wish to market to UK investors. This includes EEA UCITS (except for money-market funds) and funds from any other jurisdiction to which the Government may grant future equivalence under the OFR. We aim to create a streamlined regime, supported by a clear and proportionate regulatory framework, which attracts overseas funds to market in the UK.
- 1.14** In thinking about this objective, we are also considering the need to use our resources in the most efficient and economical way, as well as our overall operational effectiveness. Fund operators will be able to submit a recognition application, notification of changes and relevant documents through an enhanced gateway system (see chapters 2 and 3) for greater operational efficiency.
- 1.15** Our new rules are consistent with the global asset management model, and support the UK being an open financial centre.

What we are changing

- 1.16** These new rules set out the information we require to determine an application for recognition. The requirements we are making are informed by our experience of authorising UK funds and the consultation feedback to CP23/26. We have sought to streamline the recognition process. We will be requesting information that allows us to spot outliers and funds with unusual features.
- 1.17** We will require OFR fund operators to notify us of certain changes to the fund. This information will help us to assess any potential UK consumer harm arising from those changes. We would not be the fund's primary supervisor, so we expect to have limited interaction on an ongoing basis with most OFR funds and their operators.
- 1.18** We are introducing measures so that UK consumers are given a clear explanation about whether an OFR fund is covered by the FOS and FSCS in relation to their investment decisions.
- 1.19** Finally, we are finalising the rules and guidance for the FCA to make a public statement about breaches of OFR regulatory requirements, or suspend or revoke an OFR fund's

recognition as a result of any breaches, if it is desirable to do so to protect the interests of UK participants or potential participants.

1.20 Following the feedback to CP23/26, we have:

- removed the proposed 30-day period between notifying the FCA of changes to OFR funds and when those changes could take effect in the UK
- provided further explanation and clarification as to which categories of changes should be notified
- included guidance relating to additional information in disclosures for fund prospectus' and point of sale information
- clarified which UK fund prospectus requirements apply to OFR funds

Rules and directions

The OFR legislative framework gives us powers to make rules and guidance about certain matters, and to issue binding directions to OFR fund operators to carry out specific actions. This Policy Statement sets out the rules and guidance we are making and also describes our use of powers of direction. In particular, the information we intend to collect under direction is listed in Annex 3.

Apart from the directions set out in the instrument in Appendix 1, further directions will be published on our website in due course. OFR fund operators and UK firms should make reference to both our Handbook and our OFR website pages to see all the rules and directions.

Outcome we are seeking

- 1.21** The OFR allows streamlined access for overseas funds to market to UK retail investors. This promotes effective competition in the interests of consumers, by offering UK investors a broad choice of investment funds from regulatory regimes offering equivalent investor protection to that of the UK.
- 1.22** Our rules for data collection as part of the recognition process will enable us to identify and refuse funds with features that would be harmful to UK investor protection. The data will also support effective ongoing oversight of OFR funds' activities and help us identify potential risks of harm to UK investors.
- 1.23** Where potential harm is identified in a specific fund, we must refuse an application for recognition or will look to revoke or suspend a recognition order where it is desirable to do so to protect the interests of participants or potential UK participants.
- 1.24** We expect revocations and suspensions to be rare.

Outcomes and measuring success

- 1.25** We consider having a wide selection of good-quality funds available in the UK a success of the regime. We expect that most funds currently using the TMPR that wish to continue marketing to UK investors will transition to the OFR. These will include funds that are marketed actively to UK investors, or that have been admitted to trading on public markets. Some funds that registered under the TMPR for historical reasons but never marketed actively to UK retail investors may choose not to seek OFR recognition.
- 1.26** Some TMPR funds may have an existing UK customer base even though they are not actively marketing to new UK investors. It will usually be in the best interests of the current UK investors for the operator to apply for OFR recognition of the fund, even if it no longer intends to actively market the fund. Exiting the TMPR without seeking OFR recognition might have adverse consequences for UK investors. For example, the fund's UK Individual Savings Account (ISA) eligibility may be lost, which would cause any UK investors holding its units within an ISA to disinvest. So a measure of success will be that ISA eligibility for overseas funds continues uninterrupted.
- 1.27** Conversely, so that we can meet our legal duty to refuse to recognise funds in the interests of UK investor protection, or potential investor protection, the recognition process should help us to collect information and data on each fund to identify any inappropriate risks to UK investors. Refusing to recognise those funds should improve the quality of funds offered in the UK. We must also be able to publicly censure, and revoke recognition of, OFR funds that pose challenges to UK investor protection.
- 1.28** We therefore consider having an enhanced and comprehensive view of OFR funds that are actively marketing to UK investors as a measure of success. We will actively monitor the number of funds applying for recognition.

Summary of feedback and our response

- 1.29** We received 25 responses in total and are grateful to all those who submitted a response. A list of non-confidential respondents is included in Annex 1.
- 1.30** As part of our consultation, we asked respondents to give comments, including examples of potential unintended consequences of the changes we proposed.

Question 1: What, if anything, do you consider to be unintended consequences of our proposed intervention?

- 1.31** We received 14 responses to this question. Although most respondents were supportive of our overall policy proposals, a number expressed concern that application requirements which go beyond those of the TMPR could create barriers to entry to the UK market. One respondent felt that we had not clarified the grounds for approval for a fund.

- 1.32** There were concerns that the FCA is going beyond its scope. One respondent encouraged us to ensure that we follow a transparent and pragmatic approach which recognises that funds applying for recognition under the OFR have already been authorised in another jurisdiction.
- 1.33** A number of respondents expressed concerns around the implementation timelines. Some felt that we were not providing long enough for firms to prepare for the new regulations, and also that they needed more clarity on these timelines.
- 1.34** Respondents requested further clarity on defining certain terms, as well as options to ensure that UK investors are made fully aware of their redress options. This includes likely limited access to FSCS and FOS but also any redress arrangements in home states. We discuss this feedback in the relevant chapters below.
- 1.35** We received no comments in relation to our Cost Benefit Analysis (CBA).

Our response

We understand that overseas funds applying for OFR recognition are approved by their home-state regulator and are deemed to operate under similar principles and standards to the UK. Nevertheless, the OFR is different to the TMPR and previous passporting arrangements, because funds must apply to the FCA and be assessed for recognition. As such, we intend to create a proportionate regime that allows us to rely on the overall equivalence determination made by the UK Government, while gathering and assessing information we need to assist our obligation to protect UK investors.

We have adjusted our proposals in the light of feedback received. We consider these final proposals to be proportionate as they offer streamlined market access and ensure we receive an appropriate amount of information to grant or reject recognition. Though we would expect very few funds to be rejected, we have a legal duty to refuse recognition if we consider it desirable to do so to protect the interests of UK participants or potential participants.

The timelines related to operationalising the OFR, including when the transition of TMPR funds must be completed, are set by the Government.

Equality and diversity considerations

- 1.36** We consulted on whether there are any equality and diversity issues that may arise from the proposals in CP23/26. Overall, we did not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010.

1.37 We asked:

Question 2: Do you consider that proposals made in this consultation raise any particular diversity and equality issues? Please provide further details if so, including details of any suggested actions that we could take to address them.

1.38 We received no feedback that this consultation raised diversity and equality issues. However, one respondent reminded us to consider the needs of vulnerable customers, such as those who are partially sighted, when designing disclosure regimes.

Environmental, social & governance considerations

1.39 We asked:

Question 3: Do you consider that proposals made in this consultation raise any particular environmental, social and governance considerations? Please provide further details below if so, including details of any suggested actions that we could take to address them.

1.40 Out of 10 respondents, 2 expressed concern that our proposal on inappropriate or misleading names (paragraph 3.17 of CP23/26) could prevent funds with sustainability-related goals from being recognised under the OFR. These respondents were concerned that, while the fund could be in compliance with its home state's sustainability-related disclosure requirements, it may not translate to the UK Sustainability Disclosure Requirements and labelling regime (SDR) and would therefore be refused recognition on the basis of a misleading name.

1.41 The SDR does not currently apply to OFR funds, but the Government has announced that it will consult on whether the UK SDR and labelling regime should be extended to OFR funds. Following consultation, if the Government chooses to extend the regime to OFR funds, the FCA expects that it would need to consult on rules reflecting that decision.

Next steps

What you need to do next

1.42 The OFR gateway is expected to open later this year. We recently published our [roadmap](#) setting out implementation timelines, including landing slots for operators of overseas funds in the TMPR looking to apply for recognition. We will continue to update the OFR pages on our website.

- 1.43** Operators with funds currently in the TMPR should consult their landing slot on the FCA [website](#) for details of when they can apply for OFR recognition.

What we will we do next

- 1.44** We set out the final Handbook text in Appendix 1. The new Handbook rules and guidance will come into force on 31 July 2024.

Chapter 2

Applying for recognition

- 2.1** This chapter summarises feedback we received relating to the categories of information we intend to collect from OFR fund operators as part of the recognition process. We set out our responses to the issues raised.

Consultation proposal

- 2.2** We need basic information to enable us to recognise funds under the OFR, including exchange traded funds (ETFs). We also have a legal duty to refuse recognition, if it is desirable to do so to protect the interests of UK investors. Since funds applying for OFR recognition will have been approved by the NCA of a jurisdiction which the UK Government has deemed equivalent, we proposed collecting data focussing on areas posing risk to consumers, to enable us to fulfil our legal duties. This includes:
- Basic information, including the fund's name, regulatory status and legal structure – this information will be made available on the FCA's public Register.
 - Details of the investment objective, policy, and strategy to enable us to assess the suitability of the investment strategy and ensure that the fund's investment objective, policy and strategy are aligned.
 - Fees and charges, to assist us in assessing whether consumers are likely to achieve fair value.
 - Parties connected to the fund, eg delegated representatives and entities with an ongoing influence or who were involved in designing the fund.
 - Marketing and distribution strategy to understand the intended target market and which UK authorised firm will approve the fund's financial promotions (unless an exemption applies).
- 2.3** We proposed to charge an application fee for each fund seeking OFR recognition, and an ongoing periodic fee for each OFR fund recognised by us. The fees would be in line with the fees we charge for UK authorised funds.

2.4 We asked:

- Question 4:** Do you agree with the proposed set of data to be required from overseas schemes at the OFR recognition stage? If not, please explain why not and indicate what alternative approach you would suggest.
- Question 5:** Is there any data that you do not think would be appropriate for ETFs to submit as part of the OFR recognition process? If so, please provide examples and explain your answer.
- Question 6:** Do you have any comments on our approach to setting fee rates?

Feedback received

- 2.5** We received 17 responses to these proposals. Respondents broadly agreed with our proposal to collect data to inform our recognition. Some fund operators and investment managers suggested that certain data requested from OFR funds goes beyond the requirements for UK authorised funds, such as detail about annual fees retained by the management company. A couple of respondents also argued the FCA does not need to know the amount of assets under management (AUM) attributable to UK investors and said this is difficult data to obtain from distributors and intermediaries.
- 2.6** Some respondents have requested clarity on certain terms and definitions used in our proposed data set (eg "person with significant influence in the design or management of the scheme" and "any other relevant fee or charge"). Some respondents have also requested further details on the FCA's approach for assessing an identical, misleading, or inappropriate fund name.
- 2.7** Some respondents raised the inapplicability of certain proposed data items to ETFs, due to their specificities compared to other types of funds. They said our proposals for dealing frequency, minimum investment amount, and fees and charges may not be necessary for ETFs. Furthermore, at the time of application the AUM may be zero.
- 2.8** We received 13 responses on our fee proposals. Ten respondents supported them. Three stated our proposed application fees were too high and above the amount schemes paid when the UK was part of the EU. One asked whether the Category 4 fee would apply to each sub-fund or whether it would be payable at the umbrella level only.

Our response

To assess applications for recognition under the OFR, we must evaluate potential risks of harm to UK investors. Having reflected on the feedback, we still consider that our proposed dataset is proportionate.

Categories of information

Basic information regarding a fund's structure is necessary for assessing whether we should refuse to recognise it in cases where the FCA considers it desirable to do so, to protect the interests of UK investors. We believe that the information we are requesting as part of the application is necessary for assessing whether it meets the requirements under the OFR and therefore can be marketed to UK investors. We will publish an "OFR how-to guide" providing further guidance on information expected as part of the application process and clarifying some terms and definitions in the dataset.

We acknowledge that certain information may be difficult to obtain and we aim to reduce the burden on operators by allowing estimates to be provided for some items. For quantitative information such as AUM attributable to UK investors, we expect the data provided to be at least a reasonable estimate; we expect qualitative information, such as distribution and marketing, to be truthful and accurate. While we anticipate that the information requested upon application can be easily obtained by firms, operators with specific issues in obtaining data will be able to raise these issues as part of the application process.

We currently ask for information from UK authorised funds about annual fees retained by the management company, but the additional supervisory oversight over those funds means this data is gathered in a different way. Case officers reviewing UK fund authorisation applications typically ask for the breakdown of the investment management charge if it is included in the annual management charge. In cases of UK fund applications involving a sponsor, we typically ask whether the sponsor is taking any fees out of scheme property. We think it is fair and proportionate to ask for similar information concerning OFR funds.

Fund names

We expect any fund name to be appropriate, clear, fair and not misleading. Fund names should not imply that the fund has merits or qualities that cannot be justified. Fund names should not be inconsistent with a fund's investment objective and policy. A fund name should not mislead investors into thinking that persons other than the operator are responsible for the fund.

We have considered the situation where a recognised fund has an identical name to a UK authorised fund. Provided that the fund meets all other application requirements, we will not reject an application on the basis of it having an identical name to a UK authorised fund. To reduce the risk of investor confusion, we will expect the overseas operator to confirm to us that it has taken reasonable steps to satisfy itself that the UK distribution channels for the fund will make each fund's domicile sufficiently clear. This should reduce the risk that UK investors mistakenly select an OFR fund rather than the UK authorised fund with the same name.

ETFs

Operators of ETFs applying for recognition under the OFR will be required to use the same application form as for other funds, providing the same categories of information (see Annex 3). However, we recognise there may be questions of interpretation, and we will provide additional support through the "OFR how-to guide", so firms will have clarity about how to complete the relevant form for an ETF.

Fees

We consider the proposed fees a reasonable contribution towards our costs of recognising overseas funds. While application fees for passporting recognised EEA UCITS prior to the UK's exit from the EU were lower than the proposed fee and TMPR funds do not pay fees, the process relating to recognition is different to passporting. Our view remains that it is appropriate to align the application fees and periodic fees of OFR funds with those of UK authorised funds. This will help to ensure a level playing-field without creating substantial additional barriers to entry.

Following separate consultation, we have increased the application fees for UK authorised funds so that the fee for a fund in category 4 rises from £2500 to £2720. This is set out in [PS24/5: FCA regulated fees and levies 2024/25](#). We are now applying the same increase to applications under the OFR. This amount will be fixed for all funds in the TMPR that apply for OFR recognition when we direct them to, even if the direction is issued after any further general increases in fees for fund applications, so that the same fee will apply to all applicants transitioning funds from TMPR to the OFR.

Although periodic fees for an umbrella are calculated based on the number of its sub-funds, there are no separate application or periodic fees at sub-fund level. Fees are only paid for stand-alone schemes and at the umbrella level.

The periodic fees for all UK authorised funds have been reduced from 1 July 2024 and fixed at the rates set out in the instrument published in PS24/5. Since we proposed to align periodic fees for OFR funds with those of UK authorised funds, periodic fees for OFR funds will also be set at the new reduced rates compared to what we consulted on in CP23/26.

Owing to an error, the draft instrument in CP23/26 did not give effect to the intended policy of doubling the application fee for an umbrella from £2500 to £5000, which we explained in paragraph 3.38 of CP23/26. We confirm that we intend to proceed with this doubled fee and have amended the final rule accordingly. Since the standard fee has now increased in line with the revised tariffs, applying a factor of 2 will give a new umbrella application fee of £5440.

Chapter 3

Notification of changes

- 3.1** This chapter summarises the feedback we received to our proposals for changes that we would want to be notified of in relation to OFR funds. We set out our responses to the issues raised, including areas where we are changing our approach in response to feedback.

Consultation proposal

- 3.2** Over time the characteristics of an OFR fund may change. To assess the impact of how OFR funds change over time, we proposed notifications to allow us to identify changes that may present a risk of harm to UK investors. These include characteristics that may impact our continued recognition of the fund, or changes to the information that we publish about it on our Register.
- 3.3** Our proposals for post-recognition notification fell into two categories: changes to the fund's features, for example name amendments; and events that affect a fund, for example suspension of dealing. We proposed the FCA should be notified of changes in different times and ways, depending on the type of change.
- 3.4** We asked:

Question 7: Do you agree with our proposal to be notified of ad-hoc changes to OFR recognised schemes, including ETFs? If not, please explain your reason.

Question 8: Do you agree with our proposal for the timing of notifications? If not, please explain your reason.

Feedback received

- 3.5** We received 19 responses to our proposals for notifying the FCA of certain post-recognition changes and events. We received feedback about the importance of differentiating between changes that would directly or indirectly affect UK investors, and changes that would not. We proposed that OFR fund operators should notify us of changes that are fundamental or material to assess whether changes to a fund would impact UK investors. A few respondents requested clarification on the definition of those terms, with one questioning whether a direct impact on UK investors would be material. Specifically, one respondent queried whether a material increase in fees would be detrimental to UK investors if the fees were low to begin with.

- 3.6** Some queried the relevance of notifying changes that do not directly affect investors; for example, investment managers outlined that having to notify changes to a fund's legal entity identifier (LEI) may increase costs to investors but provide limited benefit.
- 3.7** Some queried the operational impact of the notification timing (30 days before the change could take effect in the UK if it occurs after the local regulator's approval). A range of respondents highlighted that during times of unexpected market events or distress, it is unlikely to be practical to inform the FCA 30 days before approval.
- 3.8** Some respondents implied in their response that they had interpreted our request for an early notification as a requirement to seek approval from the FCA for certain changes.
- 3.9** The question of consistency between UK authorised funds and OFR funds was also raised. Respondents outlined that UK authorised funds are required to inform us of changes as soon as reasonably practicable, not 30 days in advance. Changes to an OFR fund would have been approved by the home-state regulator and one respondent questioned whether the FCA is proposing to challenge such changes or whether only a notification is required.

Our response

Protecting UK investors' interests

We consider that the post-recognition data we are requesting would enable the FCA to determine whether to suspend or revoke recognition of an OFR fund when it is desirable to do so to protect the interests of UK investors. Whilst we expect revocations and suspensions of marketing to be rare, we will consider risks of consumer harm when considering changes to the fund.

We want to ensure that changes and events most relevant to, or that directly affect, UK investors are disclosed. It is not feasible for us to publish an exhaustive list of changes and events that we expect to be notified of, so the list in Annex 3 is an indicative list.

Categories of changes

We have revisited that indicative list in light of the feedback received and amended it to make some of the requirements clearer, but we have not removed any of them. We expect to be notified of changes to a fund's unique identifiers and LEIs so that we can continue to accurately identify the fund in our systems.

Because the list in Annex 3 is indicative and not exhaustive, OFR fund operators will therefore need to make judgments about what changes are 'fundamental' or 'significant'.

For UK authorised funds, changes that are 'fundamental' or 'significant' are defined in the Collective Investment Schemes sourcebook (COLL) of the FCA Handbook under COLL 4.3.4R and 4.3.6R respectively. Guidance in COLL 4.3.5G and 4.3.7G gives examples of changes that are likely to be fundamental or significant. While these rules and guidance do not apply

to OFR funds, the expectations they set should be regarded as a useful framework by operators in determining whether a change should be notified to the FCA.

Timing of notifications

We have also reconsidered our position on the timing of notifications, to recognise that many changes to OFR funds will have been approved by the NCA of a regime deemed equivalent by the Government. We understand it is impractical to give us 30 days' notice prior to the change taking effect in the UK. So OFR fund operators will not require approval from the FCA for the change and need not give advance notification where it is impractical to provide.

We now propose that for changes that the operator has identified as notifiable to the FCA:

- where that change needs to be approved by the home NCA, the operator should notify us as soon as reasonably practicable after that approval has been obtained.
- in other cases, the operator should notify us as soon as reasonably practicable after the decision to make the change has been reached or the event has occurred.

In each case the notification to the FCA should, if possible, happen before the change takes effect in the UK, although we recognise this may not be possible when unscheduled events such as a suspension of dealing occur. We also intend to leverage our strong relationship with NCAs to have visibility of key changes to OFR funds and encourage operators to communicate early with us on any material changes that may impact UK investors.

In particular, in the event that funds or sub-funds are to be terminated, we encourage operators to ensure we are given adequate notice once this event is known, so we can address any potential implications for UK investors.

Application to share / unit classes

Some of the categories of notifications relate to changes at unit class level that would materially impact UK investors because a particular class is promoted in the UK, while others are at scheme level. We have provided additional clarity about which level of change requires notification in Annex 3.

We are not expecting to change the list of ongoing notification requirements, but if we did need to, we would publish any changes on the [FCA website](#).

Chapter 4

Enhanced disclosures regarding lack of access to FSCS and FOS

- 4.1** This chapter summarises the feedback we received to our proposal to make it clearer to consumers whether or not they can access the FOS and FSCS for an investment in an OFR fund and/or whether they can access redress arrangements outside the UK.

Consultation proposal

- 4.2** Our proposals aim to increase transparency concerning the availability to UK investors of FOS or FSCS and other redress arrangements. This is intended to address the potential harm arising of UK investors choosing products despite not understanding their lack of eligibility for UK redress, or options for redress outside the UK.

- 4.3** Our proposals covered three areas:

- financial promotions
- the prospectus of the OFR recognised scheme
- the supplementary information about complaints and compensation which is specified in the Conduct of Business sourcebook (COBS), under COBS 13.3.1R (2), and must be provided at point of sale in addition to the UCITS key investor information document.

- 4.4** We asked:

Question 9: Do you agree that our rules for financial promotions for OFR recognised schemes should require a statement about the scope of the FOS and FSCS in relation to the scheme? If so, does the proposed disclosure contain the right information for investors? Please explain any alternative disclosure proposal.

Question 10: Do you agree that the prospectus of an OFR recognised scheme should include statements about the scope of the FOS and FSCS in relation to the scheme, and the possible availability of alternative redress options? If so, does the proposed disclosure contain the right information for investors? Please explain any alternative disclosure proposal.

- Question 11:** Do you agree that the supplementary UCITS information provided to retail investors at point of sale should provide the same information as the prospectus, concerning complaints and compensation rights? Please explain any alternative disclosure proposal.
- Question 12:** Do you agree that we should carry out further work to develop proposals for enhanced digital disclosure of redress arrangements for OFR recognised schemes? If so, do you have any views on the content and format of information to be communicated to investors and how the disclosure could be effectively integrated into digital interactions with consumers?
- Question 13:** For firms that sell overseas schemes to retail investors, what would be the likely costs of developing these digital disclosures, and how long would you need to put them in place?

Feedback received

- 4.5** Of 22 separate responses, there was broad agreement with our proposed disclosures on the potential lack of access to FOS and FSCS. A number of respondents asked how disclosure in the fund prospectus would work, given that a prospectus is approved by the fund's home state authority, and suggested the disclosures could be added to a UK supplement to the OFR fund's prospectus.
- 4.6** One respondent recommended including additional information in the new disclosures (ie setting out the options for redress under a fund's home state rules and any process consumers would need to go through to claim) via a hyperlink. One respondent queried the obligation of UK distributors to check the accuracy of statements about redress when communicating a financial promotion issued or approved by another regulated firm. They suggested that UK distributors should be able to rely on information provided to them regarding redress options available to UK investors, as existing provisions cover firms relying on information provided by another authorised party.
- 4.7** One respondent indicated the current proposals may not account for scenarios where there might be FSCS protection. In cases where the portfolio management is delegated to a UK authorised investment manager, claims against that authorised investment manager may be covered by FSCS. This is known as the 'look-through provision' for collective investment schemes (CIS). The 'look-through' allows the FSCS to treat each of the eligible registered unitholders as separate claimants, instead of the CIS, operator, manager or depositary / trustee who is the actual claimant, meaning that in these circumstances UK investors could be eligible for FSCS compensation in respect of actions of the UK authorised investment manager.

- 4.8** The 11 respondents who commented on possible enhanced digital disclosures had mixed views. Some supported the idea in principle, provided less technologically aware investors are not disadvantaged, and several emphasised the need for any proposals to work in the wider context of the Future Disclosure Framework review. There was some concern that we might apply more prescriptive standards to OFR funds than to UK funds. Some respondents were also sceptical about the benefits of risk warnings that create 'friction' in the consumer journey, such as pop-up warnings. Several raised the point that differences in prescribed disclosures would increase costs for non-UK product providers, although they did not attempt to quantify these costs.

Our response

Disclosures within a supplement to the prospectus

We consider it is reasonable to add the prescribed disclosures to a UK supplement to the OFR fund's prospectus. Under UK rules, the supplement is an integral part of the prospectus even if published as a stand-alone document.

We agree the prescribed redress disclosures in the prospectus and the supplementary point-of-sale information could include the additional information on home state compensation frameworks that one respondent suggested. This extra information would not be appropriate for warnings in financial promotions, which should be more succinct.

We have accommodated this proposal by providing additional guidance in COLL 9.5.7G, on the rules that require information to be disclosed in the prospectus and the supplementary point-of-sale information. The guidance gives examples of information that operators should consider disclosing to satisfy the rule requirements, such as whether there may be costs to UK investors in accessing an overseas redress arrangement.

The current consumer point-of-sale disclosure regime is under review as part of the UK's wider Future Disclosure Framework review, including the upcoming Consumer Composite Investments (CCI) regime. We anticipate that the new regime will give greater flexibility and, in due course, we may therefore propose replacing the existing COBS 13 requirements for disclosure of redress arrangements. If so, any proposals will reflect the intention of the rules we are now proceeding to make.

The 'look through' provision

In our consultation we proposed that a financial promotion relating to an OFR fund should clearly state that any claims for losses relating to the operator and depositary of the fund are unlikely to be covered by the FSCS. We acknowledge the feedback regarding the FSCS 'look through' provision, in relation to claims for losses relating to a UK authorised investment manager to which an OFR fund operator has delegated portfolio management. For the FSCS to be able to pay compensation to an investor in a fund using the 'look-through' provisions, a number of conditions would need to be satisfied. Whether this is the case will depend on the specific facts.

We note that the operator of an OFR fund could also later decide to delegate portfolio management to an investment manager which is not authorised in the UK, thereby affecting the FSCS position. We have considered whether firms could include information about the 'look-through', but have decided not to allow this as we remain concerned by the risk that investors would assume they will have FSCS protection in circumstances where that might not be the case.

Reliance on statements provided by OFR recognised operators

The obligation for UK distributors of OFR funds to check the accuracy of statements concerning redress, when communicating a financial promotion approved by another regulated firm, is addressed by our existing rules and guidance in section 2.4 of the Conduct of Business sourcebook. Firms should generally be able to rely on information provided by another authorised firm in these specific circumstances and this guidance should extend to information provided by OFR-recognised funds.

However, UK firms should assess, in line with the existing rules mentioned above, whether there are reasonable grounds to question the accuracy of the redress information provided. We encourage UK distributor firms to assess whether the information is appropriate on a case-by-case basis. Further information about what firms need to do to approve financial promotions for unauthorised persons is set out on [our website](#).

Digital disclosures

We note the diversity of views concerning enhanced disclosure through digital means. We agree that this should not be considered in isolation from the Future Disclosure Framework, including the upcoming CCI regime review, and we will consider further how to integrate information about the availability of FOS and FSCS (and any overseas alternatives) into the CCI regime.

Chapter 5

Refusal of recognition, suspension or revocation of recognition and public censure

- 5.1** This chapter outlines the feedback we received on our proposed changes to our Glossary, the Decision Procedure and Penalties Manual (DEPP) and the Enforcement Guide (EG) in order to be able to exercise our supervisory powers in relation to OFR funds.

Consultation proposal

- 5.2** We proposed that FCA staff, acting under executive procedures, will take decisions under sections 271H, 271M, 271N, 271O or 271R of FSMA to give supervisory, warning or decision notices as part of the process for:
- The refusal of applications for recognition under s.271A
 - The suspension or revocation of recognition under s.271A; and
 - The use of the FCA's power of censure in relation to scheme recognised under s.271A.
- 5.3** We also proposed applying the existing guidance in DEPP 2.5.13G, on modified procedures for decisions relating to collective investment schemes, to schemes recognised under s.271A. Additionally, we proposed similar changes to EG.
- 5.4** Finally, we proposed to make a consequential change to the list of powers of censure in the definitions of "breach" and "public censure" in the Glossary.
- 5.5** We asked:

Question 14: Do you have any comments on our proposed changes to the Glossary, DEPP and EG?

Feedback received

- 5.6** Respondents supported our proposed approach to making decisions to refuse recognition, suspension or revocation and issue a public censure.

Our response

We will finalise the rules as consulted on.

Chapter 6

Other matters

- 6.1** This chapter summarises the feedback we received on other matters we consulted on which are relevant to the operation of the OFR, including our proposals in relation to Handbook references to OFR; provision of facilities to UK investors; and schemes of arrangement involving OFR funds.

Consultation proposal

- 6.2** We proposed to simplify the Glossary definition of 'recognised scheme' to ensure it is clear and works consistently throughout the Handbook. To distinguish between the two types of recognised scheme, we will refer in the Handbook to those recognised under s.271A as 'OFR recognised schemes'.
- 6.3** We proposed that the operator of an OFR fund must prepare and make available to investors a prospectus that complies with the requirements of COLL 4.2, including the list of prescribed contents.
- 6.4** We proposed to require the operators of OFR funds to continue providing UK investors with access to a UK representative of the operator, as was the case previously where an EEA UCITS was sold cross-border in the UK under UCITS Directive passporting arrangements.
- 6.5** We also proposed to maintain the ability of UK AFMs to propose a scheme of arrangement between a UCITS scheme and a recognised EEA UCITS, if the Government decides to designate some or all EEA UCITS equivalent under the OFR process. We proposed modifying this rule to include any EEA UCITS recognised under s.272.
- 6.6** We asked:

Question 15: Do you have any comments on the rules and guidance explaining the operation of the OFR? Are there any similar matters we should address within the Handbook?

Question 16: Do you have any comments on our proposals for maintaining UK facilities for investors in OFR recognised schemes under the OFR? Do you agree that we should review the rules on providing UK facilities for schemes recognised under s.272?

Question 17: Do you agree that it should continue to be possible for a UK UCITS scheme to be merged with an EEA UCITS recognised under the OFR (if this is permitted) and under section 272?

Question 18: Do you agree that a proposal for a scheme of arrangement with an OFR recognised scheme should set out the consequences for UK investors in relation to their rights to make complaints and receive redress?

Feedback received

- 6.7** Respondents were supportive of our proposals on the operation of the OFR and those concerning the merger of UK and EEA UCITS (COLL 7.6.2R) but highlighted the possibility of UK investors losing their redress rights. Indeed, in line with our proposals, respondents agreed with the need to make UK investors aware of changes to their redress rights.
- 6.8** Some respondents disagreed with our proposal concerning the general contents of the prospectus. They said that the list in COLL 4.2.5R includes information that is not required in some jurisdictions, eg concerning the use of benchmarks or a 'total return' investment strategy, or information that may be incompatible with the disclosures required by the home-state regulator.
- 6.9** Respondents broadly supported our proposal for maintaining facilities for UK investors in OFR funds and welcomed the option to offer facilities online. However, some understood this to mean they would need to obtain express individual consent from each investor to establish online facilities. Respondents agreed with our proposal to review the facilities rules for schemes under s.272.

Our response

We will make the rules and guidance on defining a 'recognised scheme' and other consequential changes to COLL 9 as consulted on. We will also make the changes to COLL 7.6.2R as consulted on.

We have modified COLL 9.5.5R to clarify which UK requirements concerning the fund prospectus also apply to the prospectus of an OFR fund. The rule now requires disclosure of information required by COLL 4.2.5R, to the extent this information would be compatible with the basis upon which the prospectus is approved in its Home State. A statement would be incompatible if it conflicts with other statements in the prospectus that have already been approved by the NCA of the fund. For example, it would be incompatible to include information that modifies the investment objective, policy or strategy of the fund where this further information has not been approved by the NCA for inclusion in the prospectus.

Regarding the provision of UK facilities, we will make the rules broadly as consulted on. We did not intend to require OFR fund operators to ask for explicit individual consent from new investors before providing online facilities, where the operator is already communicating electronically with existing investors. Similarly, where an existing investor has already

consented to receiving communications from the operator through electronic media, that consent is sufficient for the purpose of the new rule. Therefore, we have slightly reworded COLL 9.5.14R (1) to make it clearer that OFR fund operators can rely on any pre-existing contractual consent for communicating with investors through electronic media.

Annex 1

List of non-confidential respondents

Acadian Asset Management

Amundi Asset Management

Association Française de la Gestion financière (AFG)

Association of the Luxembourg Fund Industry (ALFI)

BlackRock

CMS LLP

European Fund and Asset Management Association (EFAMA)

Federated Hermes

Financial Services Consumer Panel

Invesco

Investment Association (IA)

Investment Company Institution (ICI) Global

Kroll Advisory Limited

Macfarlanes LLP

Momentum Global Investment Management

Personal Investment Management & Financial Advice Association (PIMFA)

Annex 2

Abbreviations used in this paper

Abbreviation	Description
AUM	Assets under management
CBA	Cost Benefit Analysis
CCI	Consumer Composite Investments
CIS	Collective Investment Scheme
COBS	Conduct of Business sourcebook
COLL	Collective Investment Schemes sourcebook
DEPP	Decision Procedure and Penalties Manual
EEA	European Economic Area
EG	Enforcement Guide
ETF	Exchange Traded Fund
EU	European Union
FCA	Financial Conduct Authority
FOS	Financial Ombudsman Service
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
ISA	Individual Savings Account
LEI	Legal Entity Identifier
NCA	National Competent Authority
OFR	Overseas Funds Regime
PS	Policy Statement
SDR	Sustainability Disclosure Requirements

Abbreviation	Description
TMPR	Temporary Marketing Permissions Regime
UCITS	Undertaking for Collective Investment in Transferable Securities

Annex 3

Data requirements for fund operators

Table 1: Information that operators of UCITS in TMPR must check immediately and prior to submitting applications for recognition

Information	Action required
Contact information	Check current contact information is up-to-date on the FCA Register and email recognisedcis@fca.org.uk if any changes are needed
Fund population	Check on the FCA Register and email recognisedcis@fca.org.uk if any changes are needed. If you require a copy of your fund population, email recognisedcis@fca.org.uk

Table 2: Information required to be submitted by fund operators when applying for recognition under OFR

Information category	Specific requirements
Information identifying the fund	Fund name, including sub-fund names
	Product Reference Number for funds in the TMPR
	LEI, including sub-fund LEIs
	Country / jurisdiction of fund domicile
	Legal structure and fund type
	Name and contact details of fund operator
Information on the fund's profile	Investment objective, policy and strategy as stated in the prospectus
	Value of total assets under management at a recent date and the proportion specifically attributable to UK investors
	Reason for any suspension of dealing in the past 5 years
	Fund category and main categories of asset class (lists will be provided in the application form)
	Information on use of derivatives
	Geographic location of portfolio assets
	Use of benchmarks
	Whether actively or passively managed
	Whether the fund is an ETF or not
	Dealing frequency
	Target investors (retail, institutional or both)
	Any particular ESG focus

Information category	Specific requirements
Fees and charges at fund and unit / share class level	Initial and exit / redemption charges payable to fund operator / its associate
	Ongoing charges figure
	Performance fees
	Any other relevant fee or charge
	Amount of annual management charge retained by the management company / operator
Characteristics of unit / share classes to be promoted in the UK	Name / designation
	Identifiers, including LEI or ISIN
	Minimum initial investment amount
	Whether tokenised or not
	Accumulation or income
Name and LEI of parties connected to the fund	Management company / operator
	Depositary
	Delegated portfolio manager, and any sub-delegates appointed
	UK representatives
	UK authorised person approving financial promotions on behalf of the fund
	Any sponsor or other person influencing the fund's design or management
Information about marketing and distribution	Details of any promotional payments to entities associated with marketing or distributing the fund

Table 3: Changes to funds and other events that operators of OFR funds must notify to the FCA

When is the notification required?

1. For a change that must be approved by the home-state regulator of the fund or its operator, a notification should be sent to the FCA as soon as reasonably practicable after the approval has been given.
2. For any other change or event, a notification should be sent to the FCA as soon as reasonably practicable.
3. In each case, the notification to the FCA should include the date at which any change takes effect.

How should the notification be made?

4. The table below indicates which notifications should be made using the Connect system and which should be made by sending an email. There will be a separate Connect form for notifying a termination of a scheme or sub-fund in its home jurisdiction. Further details will be published on the FCA website.

Type of change / event to be notified via Connect

Fund's name
Fund's legal structure
LEIs and unique indicators at fund level
Fundamental change to a fund's investment objective, policy or strategy <i>For example, a change of the predominant investment from equities to bonds</i>
Any change to a benchmark against which fund performance is tracked or compared
Matters that would be likely to cause a significant negative effect on UK investors at fund or class level
Fund's target UK investors – whether retail, institutional or both – at fund or class level
Material change to fund's minimum investment applicable to UK investors at class level. <i>Specifically, if the minimum investment will equal or exceed £50,000</i>
Replacement of the fund operator
Appointment or replacement of connected parties: depositary, delegated investment manager, fund sponsor, UK representative of the operator or the UK financial promotions approver
Change of name of the fund operator or any connected party
Change of address of the fund operator, depositary, the UK representative of the operator or the place in the UK for services of notices
A request to de-recognise the stand-alone scheme / umbrella / sub-fund when it will remain in existence, but the operator no longer wishes it to be marketed in the UK
Termination of a stand-alone scheme / umbrella / sub-fund in its home jurisdiction

Type of change / event to be notified via email

The fund operator becomes aware that it has contravened or expects to contravene any requirement imposed on it by FSMA
Supervisory sanctions imposed on the operator / fund itself by the home state regulator(s), once in the public domain. Any restrictions on their activities that have been voluntarily agreed by them
Suspension of dealing in fund's units / shares <i>FCA Fund Supervision should be notified of these changes</i>

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Appendix 1

Made rules (legal instrument)

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.

<i>breach</i>	in <i>DEPP</i>: ... (10A) a contravention in respect of which the <i>FCA</i> is empowered to take action pursuant to <u>section 271R (Public censure) or section 282B (Public censure) of the <i>Act</i></u>; ...
<i>EEA key investor information document</i>	a <i>document</i> that: ... (b) complies with the requirements of Commission Regulation (EU) No 583/2010 <u>as it had effect in the <i>United Kingdom</i> immediately before <i>exit day</i></u>; and ...
<i>Home State</i>	... (17) ... (18) <u>(in relation to the operator or depositary of an OFR recognised scheme) the country or territory in which the operator or depositary (as applicable) of the OFR recognised scheme is authorised.</u> (19) <u>(in relation to an OFR recognised scheme, and other than a scheme in (10)), the country or territory in which the scheme is authorised.</u>

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 <i>FEES</i> 3 Annex 1AR.	Due date
...		
(da) <i>Persons</i> making an application or notification in relation to applications set out in <i>FEES</i> 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 <i>FEES</i> 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>	

(3) Section 261C of the Act, application for order declaring a <i>scheme</i> to be an ACS, whether it is established as a <i>co-ownership scheme</i> or a <i>limited partnership scheme</i> (1), (2) and (3) also apply to funds where an application is also made to be authorised under the <i>Money Market Funds Regulation</i>	<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>	
Section 261C of the Act This section also applies to funds where an application is also made to be authorised under the <i>Money Market Funds Regulation</i>	On application for an order declaring a <i>scheme</i> to be an ACS, whether it is established as a <i>co-ownership scheme</i> or a <i>limited partnership scheme</i>, 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>	
<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>
Section 272 of the Act	On application for an order declaring a scheme to be recognised	An applicant		

	where the scheme 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 recognised under section 271A of the 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 (£)
EEA UCITS scheme recognised under Part 6 of The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2018	...	...	...
Note: Schemes <u>Schemes</u> are charged according to the number of funds <u>funds</u> or sub-funds <u>sub-funds</u> which a TP firm <u>TP UCITS qualifier</u> is operating and marketing in the UK <u>UK</u> 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. <u>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.</u>			

...

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 collective investment scheme under section 271A</u>		
<u>271N(2)/(3)(a)</u>	<u>when the FCA is proposing or deciding to revoke an order made under section 271A in relation to an OFR recognised scheme</u>	<u>COLL 9</u>	<u>Executive procedures</u>
<u>271O(4)/(5)(a)</u>	<u>when the FCA is proposing or deciding to refuse a request for the revocation of an order under section 271A in relation to an OFR recognised scheme</u>	<u>COLL 9</u>	<u>Executive procedures</u>
<u>271R(3)/(4)(a)</u>	<u>when the FCA is proposing or deciding to publish a statement censuring the operator of an OFR recognised scheme</u>	<u>COLL 9</u>	<u>Executive procedures</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 FCA gives a direction under section 271L</u>	<u>COLL</u>	<u>Executive procedures</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 rules specified in column (2) do not apply to a TP UCITS qualifier in relation to a scheme 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).*

