

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** UKLA/TN/425.1 – Open-ended investment companies and transfer restrictions

**Lead regulator:** FCA

**Date of assessment:** May 2017

**Commencement date:** March 2017

**Origin:** Domestic

**Does this include implementation of a Cutting Red Tape review?** No

**Which areas of the UK will be affected?** National

### Brief outline of proposed new or amended regulatory activity

Companies listed on the Official List (and typically admitted to the LSE's Main market) are subject to a number of rules when joining the market, continuing obligations governing conduct, disclosure rules on an ongoing basis and on an ad-hoc basis when they issue further securities. The rules are set out in the FCA's Listing Rules, prospectus Rules and Disclosure and Transparency Rules. There are additional directly applicable requirements set out in European regulations, notably MAR.

The UKLA's Technical Notes and Procedural Notes are short guidance notes intended to provide additional clarity to listed companies and their advisers as to how the FCA interprets provisions in these rulebooks. The FCA typically issues these when it has received a number of questions on the same topic, or other market feedback. The guidance provided in these notes is new guidance, which was subject to public consultation and finalised in March 2017. The objective of this new guidance is to clarify our rules and help firms to have a better understanding about application of those rules.

Open ended investment companies (as defined by S236 of FSMA) are collective investment schemes managed on behalf of a company with the aim of spreading investment risk and managing funds on behalf of its investors.

Admission to the Official List for open-ended investment companies is available where such applicants meet the requirements of Chapter 16 of the Listing Rules. LR 16.1.1R (1) explicitly covers investment companies with variable capital which have been granted an authorisation order by the FCA. This technical note seeks to clarify to the market that, pursuant to LR 16.2.1R, an applicant must still comply with the additional eligibility requirements including all of the requirements of Chapter 2 of the Listing Rules (which includes the requirement for securities to be freely transferable and free from any restriction on transfer as required by LR 2.2.4R).

The technical note highlights to potential new applicants that there are different types of authorisation orders the FCA may grant, and that we expect applicants to satisfy themselves that the particular authorisation order they are seeking will not prevent them from complying with the requirements set out under LR 16.2.1R, including LR 2.

The purpose of the technical note is to clarify existing practice and not to impose a new procedure carried out by the FCA.

**Which type of business will be affected? How many are estimated to be affected?**

This guidance applies to all OEICs with a premium listing of equity shares on the Official List (around 12 OEICs total). In practice, only a subset of these will be affected by this guidance as the frequency that companies obtain authorisation orders from the FCA will vary.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2017	March 2017	10	0	0.0	0.0

**Please set out the impact to business clearly with a breakdown of costs and benefits**

Note – for all cost estimates below we have assumed the changes will be applied by experienced compliance staff at an estimated rate of £48/hour. The 2016 Robert Half salary guide estimates that a compliance manager in the risk and compliance function of a financial services company based in London earns between £70,000 and £104,000 per annum. Based on working 8 hours per day for 260 days each year our rate equates to £100,000 per annum and is therefore considered a suitably prudent figure for the purposes of our estimates.

We expect that all of the approximately 12 OEICs would find it helpful to familiarise themselves with the ½ page guidance note. For the approximately 12 OEICs on the Official List who may find it helpful to familiarise themselves with the guidance, we would expect that the note would take approximately 15 minutes to read, digest, and disseminate to any relevant members of staff, and, if necessary, update the relevant procedure to reflect the guidance.

This is an estimate of the maximum amount of time it might take an OEIC, as the ½ page note provides clarification in relation to how OEICs should consider transfer restrictions related to share capital. At the estimated rate of £48/ hour, the total estimated cost for all 12 OEICs would be £144 ([Robert Half salary guide](#))<sup>1</sup>.

Therefore, given the rules have not changed, there should be minimal impact to OEICs as a result of this guidance.

**Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.**

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<sup>1</sup> We arrived at the 15 minute estimate based on the following calculation. The 1 page technical note contains approximately 136 words. The speed of reading technical text is 50-100 words per minute based on EFTEC (2013), "Evaluating the cost savings to business revised EA guidance - method paper" the time remaining to digest, disseminate the information and if necessary update the relevant procedures is based on our broader supervisory knowledge of how firms respond to our Technical Notes and also on supervisory conversations with firms about their procedures relating to this specific issue.