

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019: notification of certain sub-funds after IP completion day

Direction under regulations 63(3)(c) and 64(1) of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

1. Purpose

This direction is given by the FCA under regulation 64(1) of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 (the Regulations). It applies to notifications to the FCA in accordance with regulation 63(3)(c) of the Regulations.

2. Manner in which notifications are to be made

The FCA directs that a notification made for the purposes of regulation 63(3)(c), by the operator of a new sub-fund that wishes that new sub-fund to be treated as a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000 (FSMA) under regulation 62 of the Regulations, must:

- a. include a complete [notification letter](#) for the recognition of the new sub-fund;
- b. include copies of the following documents and information (translated into English, if necessary):
 1. the latest version of fund rules of incorporation or instruments constituting the fund;
 2. the latest version of the prospectus for the new sub-fund;
 3. the key investor information for the new sub-fund;
 4. the latest published annual report and any subsequent half-yearly report;
 5. a copy of the approval letter attestation from the home state regulator confirming authorisation for the new sub fund;
 6. the name of any firm that will carry out the marketing activities for the new sub-fund in the UK;
- c. include the address and details of the facilities that will be maintained in the UK as required by COLL 9.4 as applied by the rules in GEN 2.2.32R and 2.2.33R in both the notification letter and the prospectus for the new sub-fund;
- d. be made after IP completion day; and
- e. be made before the start of the period specified by the FCA under regulation 68 in relation to the new sub-fund's umbrella scheme.

3. Interpretation

In this direction, references to 'operator', and 'home state regulator' have the meanings given in the relevant paragraphs of regulation 61 of the Regulations; references to 'new sub-fund' have the meaning given in regulation 63(3) of the Regulations; a reference to the authorisation of a sub-fund by its home state regulator is to be construed in accordance with regulation 61(5) of the Regulations; and 'IP completion day' is defined as 31 December 2020 at 11.00pm under the EU (Withdrawal Agreement) Act 2020, s.39.

Note

Section 264 of the Financial Services and Markets Act 2000 (the Act) enables collective investment schemes that are EEA UCITS to be marketed to the public in the United Kingdom as 'recognised schemes' subject to certain conditions.

Part 6 of the Regulations creates a temporary extension of this marketing regime. The Regulations allow the operator of an EEA UCITS which benefits from the temporary extension to the marketing regime to market 'new sub-funds' in the United Kingdom after IP completion day, subject to certain conditions (regulation 63(3)). The conditions are:

- (1) that the sub-fund ("the new sub-fund") becomes authorised by its home state regulator on or after IP completion day;
- (2) that at the time when the new sub-fund becomes authorised by its home state regulator at least one other sub-fund of the new sub-fund's umbrella scheme is a recognised scheme under Part 6 of the Regulations;
- (3) that, after the new sub-fund becomes authorised by its home state regulator and while at least one other sub-fund of the umbrella scheme continues to be so authorised, the operator of the new sub-fund has notified the FCA in accordance with regulation 64 that it wishes the new sub-fund also to be treated as a recognised scheme under Part 6 of the Regulations; and
- (4) that the notification is given before the start of the period specified by the FCA under regulation 68 in relation to the new sub-fund's umbrella scheme.

A notification made by an operator must be made in such manner, during such period, and be accompanied by such information as the FCA may direct under regulation 64(1) of the Regulations. These directions are given for this purpose and the operator's notification must be made in accordance with this direction.