

**COLLECTIVE INVESTMENT SCHEMES (UCITS AMENDING DIRECTIVE)
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority 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 138 (General rule-making power);
 - (b) section 140 (Restrictions on managers of authorised unit trust schemes);
 - (c) section 156 (General supplementary powers);
 - (d) section 157 (Guidance);
 - (e) section 213 (The Compensation Scheme);
 - (f) section 214 (General);
 - (g) section 242 (Applications for authorisation of unit trust schemes);
 - (h) section 247 (Trust scheme rules);
 - (i) section 248 (Scheme particulars rules);
 - (j) section 270 (Schemes authorised in designated countries or territories);
 - (k) section 274 (Applications for recognition of individual schemes);
 - (l) section 278 (Rules as to scheme particulars); and
 - (m) section 340 (Appointment); and
 - (2) regulations 6 (FSA rules) and 12 (Applications for authorisation) of the Open-Ended Investment Company Regulations 2001.

- B. The provisions of or under the Act listed above are specified for the purpose of section 153 (2) of the Act (Rule – making instruments).

Commencement

- C. This instrument comes into force on 13 February 2004.

Amendments to the Handbook

- D. The modules of the FSA’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)
PRIN	Annex A
SYSC	Annex B
IPRU(INV)	Annex C
COB	Annex D
AUTH	Annex E
SUP	Annex F
DEC	Annex G
COMP	Annex H
CIS	Annex I
Glossary	Annex J

Citation

- E. This instrument may be cited as the Collective Investment Schemes (UCITS Amending Directive) Instrument 2003.

By order of the Board

17 July 2003

Annex A
Amendments to Principles for Businesses (PRIN)

In this Annex, underlining indicates new text.

Table 3.3.1 R (Territorial application of the Principles)

Principle	Territorial application
<p>...</p> <p><i>Principles 6, 7, 8, 9 and 10</i></p> <p>...</p>	<p><u><i>Principle 8, in a prudential context, applies with respect to activities wherever they are carried on; otherwise apply with respect to activities carried on from an establishment maintained by the <i>firm</i> or its <i>appointed representative</i> in the <i>United Kingdom</i> unless another applicable <i>rule</i> which is relevant to the activity has a wider territorial scope, in which case the <i>Principle</i> applies with that wider scope in relation to the activity described in that <i>rule</i>.</i></u></p>

Annex B
**Amendments to Senior Management Arrangements, Systems
and Controls Sourcebook (SYSC)**

In this Annex, underlining indicates new text.

Appendix 1

Matters reserved to a Home State regulator

1.1.2 G ...

- (1) the *Single Market Directives* expressly reserve responsibility for the prudential supervision of an *ISD investment firm*, *BCD credit institution*, *UCITS management company* or passporting *insurance undertaking* to the *firm's Home State regulator*; accordingly, the *FSA*, as *Host State regulator*, is entitled to regulate only the conduct of the *firm's* business within the *United Kingdom*;

...

...

Annex C

Amendments to the Interim Prudential Sourcebook for Investment Businesses (IPRU(INV))

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section of text is being inserted, the place that it goes is indicated and it is not struck through or underlined.

Before Chapter 1, insert the following:

Transitional provisions

1 Table Transitional provisions applying to IPRU(INV)

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
1	<i>IPRU (INV)</i> 7	R	A <i>UCITS management company</i> authorised on or before 12 February 2004 need not comply with the provisions in <i>IPRU(INV)</i> 7 until 12 February 2007 provided it continues to comply instead with the provisions in <i>IPRU(INV)</i> 5 and it continues to restrict its activities to those specified under <i>CIS</i> 16.5.1R (1) to (3).	From 13/2/04 to 12/2/07	13/2/04

1.2 APPLICATION

1.2.1 R The *Glossary* ~~annexed to the General Provisions Instrument 2001~~ applies to the transitional provisions, this chapter *IPRU(INV)* 1, *IPRU(INV)* 2, *IPRU(INV)* 4 and *IPRU(INV)* 6.

1.2.2 R (1) *IPRU(INV)* applies to:

...

(f) a *service company*; ~~and~~

(g) the *Society of Lloyd's* (in relation to *underwriting agents*); and

(h) a *UCITS management company*.

...

1.2.5 R Table

This table belongs to *IPRU (INV)* 1.2.3R

Professional firm

Chapters 1 and 2

...

...

UCITS management company

Chapters 1 and 7

...

Chapter 5

...

APPENDIX 1 (INTERPRETATION)

GLOSSARY OF TERMS FOR CHAPTER 5 (FORMER IMRO FIRMS)

The following words or terms throughout Chapter 5 are to have the meanings given to them below if not inconsistent with the subject or context. If a defined term does not appear in the Chapter 5 glossary below, the definition appearing in the *Glossary* annexed to the General Provisions Instrument 2001 ("the *Glossary*") applies.

...

consolidated supervision means, in relation to a *firm* which is a member of a *group*, the application of Chapter 5, or in the case of a *UCITS management company* Chapter 7, of the Interim Prudential Sourcebook to:

- (a) that *firm* on a solo basis; and
- (b) that *firm* and any other member of that *group* of which the *firm* is a member on a consolidated basis.

financial resources requirement

- (a) (in relation to a *UCITS management company*) has the meaning given in rule 7.2.1R (2) and (3);
- (b) (in relation to a *firm* other than one in (a)) has the meaning given in rule 5.2.3(1) (a) to (c) (Determination of requirement).

funds under management

- (1) *collective investment schemes* other than *OEICs* managed by the *firm* including *schemes* where it has delegated the management function but excluding *schemes* that it is *managing* as delegate; and
- (2) *OEICs* for which the *firm* is the designated management company.

Glossary means the ~~Glossary giving the meanings of the defined expressions used in the Handbook~~ glossary of defined terms which applies for other parts of the *Handbook* as amended from time to time.

initial capital (in relation to a *UCITS management company*) means capital calculated in accordance with Table 7.3.1R (Method of calculation of financial resources) composed of the specified items set out in that Table.

liquid capital

- (a) (in relation to a UCITS management company) means capital calculated in accordance with Table 7.3.1R composed of the specified items set out in that Table;
- (b) (in relation to a firm other than one in (a)) has the meaning given in rule 5.2.2(2) and Table 5.2.2(1) (Calculation of own funds and liquid capital).

own funds

- (a) (in relation to a UCITS management company) means capital calculated in accordance with Table 7.3.1R composed of the specified items set out in that Table;
- (b) (in relation to a firm other than one in (a)) has the meaning given in rule 5.2.2(1) (Own funds) and Table 5.2.2(1) (Calculation of own funds and liquid capital).

After Chapter 6 (Service Companies), insert the following new chapter:

7 UCITS MANAGEMENT COMPANIES

7.1 INTRODUCTION

Application

7.1.1 R (1) This chapter, (*IPRU (INV) 7*) and any provisions of Chapter 5 (*IPRU (INV) 5*) incorporated into this chapter by reference, apply to a *firm* which is a *UCITS management company* but not an *EEA UCITS management company*.

(2) The definitions in the Glossary at Appendix 1 to Chapter 5 (*IPRU(INV) 5*) apply to this chapter.

7.1.2 G *Firms* are reminded that a *UCITS management company* can be either:

(1) a *UCITS firm*; or

(2) a *UCITS investment firm*.

Purpose

7.1.3 G (1) The purpose of this chapter is to amplify *Principle 4* (Financial resources) which requires a *firm* to maintain adequate financial resources to meet its *investment business* commitments and to withstand the risks to which its business is subject. This assists in the achievement of the *regulatory objectives* of consumer protection and market confidence.

(2) This chapter also implements certain requirements of the *UCITS Directive*, as amended by the amending Council Directive 2001/107/EC, which among other matters imposes capital requirements on a *UCITS management company*.

7.2 FINANCIAL RESOURCES AND FINANCIAL RESOURCES REQUIREMENTS

7.2.1 R (1) A *firm* must ensure that it has at all times financial resources calculated in accordance with Table 7.3.1 R which equal or exceed the applicable *financial resources requirement*.

(2) A *firm* must calculate its *financial resources requirement* in accordance with *rule 7.2.2 R*.

(3) In addition to (1), a *UCITS investment firm* must also ensure that it has at all times *liquid capital* calculated in accordance with Table 7.3.1 R which equal or exceed its liquid capital resource requirement.

(4) A *UCITS investment firm* must calculate its liquid capital resource requirement in accordance with *rule 7.2.3 R*.

Requirements

- 7.2.2 R The *financial resources requirement* for a *firm* is calculated in accordance with whichever of (1) or (2) produces the higher amount:
- (1) subject to a maximum requirement of €10,000,000:
 - (a) *initial capital* requirement of €125,000; plus
 - (b) if the *funds under management* exceed €250,000,000, an additional amount of 0.02% of the excess; or
 - (2) 13/52 of its annual audited fixed expenditure calculated in accordance with *rule 7.2.4 R*.
- 7.2.3 R The liquid capital resource requirement for a *UCITS investment firm* is the sum of (1) and (2):
- (1) 13/52 of annual audited fixed expenditure calculated in accordance with *rule 7.2.4 R*; and
 - (2) in respect of *designated investment business* other than when undertaking *scheme management activity* the sum of its:
 - (a) position risk requirement calculated in accordance with Table 5.2.3 (5)(b);
 - (b) counterparty risk requirement calculated in accordance with Table 5.2.3 (5)(c);
 - (c) foreign exchange requirement calculated in accordance with Table 5.2.3 (5)(d); and
 - (d) other assets requirement calculated in accordance with Table 5.2.3 (5)(e).
- 7.2.4 R For the purposes of *rules 7.2.2(2)R* and *7.2.3(1)R* a *firm's* annual audited fixed expenditure is:
- (1) the amount described as total expenditure in the most recent *annual financial return*, less the following items (if they are included within such expenditure):
 - (a) staff bonuses, except to the extent that they are guaranteed;
 - (b) *employees' and directors' shares* in profits, except to the extent that they are guaranteed;
 - (c) other appropriations of profits;

- (d) shared *commission* and fees payable which are directly related to *commission* and fees receivable, which are included within total revenue;
 - (e) interest charges in respect of borrowings made to finance the acquisition of the *firm's readily realisable investments*;
 - (f) interest paid to *customers* on *client money*;
 - (g) interest paid to *counterparties*;
 - (h) fees, brokerage and other charges paid to *clearing houses*, exchanges and *intermediate brokers* for the purposes of *executing*, registering or clearing *transactions*;
 - (i) foreign exchange losses;
 - (j) other variable expenditure; or
- (2) where the previous accounting period does not include twelve months' trading, an amount calculated in accordance with paragraph (1) above pro-rated to an equivalent annual amount; or
 - (3) where a *firm* has not prepared an *annual financial return* or *annual accounts* since the commencement of its *permitted business*, an amount based on forecast expenditure included in the budget for the first twelve months' trading, as submitted with its application for authorisation.

7.2.5

- G A *firm's* financial resources requirement will be recalculated and audited annually when its *annual financial return* is prepared. The *firm* must maintain financial resources sufficient to meet its new financial resources requirement from the date on which the *annual financial return* is approved by the auditor. The annual audited fixed expenditure, applicable at the *accounting reference date* to which the *annual financial return* is prepared, will be that based on the previous year's figures. This will usually be the same as that used in the fourth quarter's *quarterly financial return* prepared to the same *accounting reference date*.

7.3 METHOD OF CALCULATION OF FINANCIAL RESOURCES

7.3.1 R This table belongs to *rule 7.2.1R (1)*

PART I	
A <i>firm</i> must calculate its financial resources as shown below, subject to the detailed requirements set out in Part II.	
Financial resources	Category Part II Para
TIER 1	
(1) Paid-up share capital (excluding preference shares)	2
(2) Share premium account	} A
(3) Audited reserves	
(4) Non-cumulative preference shares	
(5) Investments in own shares	
(6) Intangible assets	} B
(7) Material current year losses	
(8) Material holdings in credit and financial institutions	
Initial capital = (A-B) =	C 1(b)
TIER 2	
(9) Revaluation reserves	} D
(10) Fixed term cumulative preference share capital	
(11) Long-term Qualifying Subordinated Loans	
(12) Other cumulative preference share capital and debt capital	
(13) Qualifying arrangements	
Own funds = (C+D) =	E
TIER 3	

(14) Illiquid assets	F	10
Financial resources = (E-F) =	G	
(15) Short-term Qualifying Subordinated Loans and excess Tier 2 capital		1(e);9
	H	
(16) Not used		
(17) Qualifying Property		11
Liquid capital = (G+H)		

+

PART II	
DETAILED REQUIREMENTS	
1 Ratios	
(Items 10, 11 and 15)	
(a)	the total of fixed term cumulative preference shares (item 10) and long-term <i>qualifying subordinated loans</i> (item 11) that may be included in Tier 2 capital is limited to 50 per cent of Tier 1 capital (But see sub-paragraph (d) below);
(b)	Tier 1 capital must equal or exceed €125,000 at all times;
(c)	Tier 2 capital must not exceed 100 per cent of Tier 1 capital;
(d)	capital which would otherwise qualify as Tier 2 capital but for the operation of paragraphs (a) and (c) may be treated as Tier 3 capital (liquid capital) for <i>UCITS investment firms</i> subject to sub-paragraph (e) below; and
(e)	the total of the excess of Tier 2 capital so treated as Tier 3 capital and short-term <i>qualifying subordinated loans</i> (item 15) may not exceed 250 per cent of an amount equal to Tier 1 capital less the <i>other assets requirements</i> calculated in accordance with Table 5.2.3(5)(e).
2 Non corporate entities	
(a)	In the case of partnerships or sole traders, the following terms should be substituted, as appropriate, for items 1 to 4 in Tier 1 capital:
(i)	partners' capital accounts (excluding loan capital);
(ii)	partners' current accounts (excluding unaudited profits and loan capital);
(iii)	proprietor's account (or other term used to signify the sole trader's capital but excluding unaudited profits).
(b)	Loans other than <i>qualifying subordinated loans</i> shown within partners' or proprietors' accounts must be classified as Tier 2 capital under item 12.

3 Intangible assets (Item 6)

Intangible assets comprise:

- (a) formation expenses to the extent that these are treated as an asset in the *firm's* accounts;
- (b) goodwill, to the extent that it is treated as an asset in the *firm's* accounts; and
- (c) other assets treated as intangibles in the *firm's* accounts.

4 Material current year losses (Item 7)

Losses in current year operating figures must be deducted when calculating Tier 1 capital if such losses are material. For this purpose profits and losses must be calculated quarterly, as appropriate. If this calculation reveals a net loss it shall only be deemed to be material for the purposes of this Table if it exceeds 10 per cent of the *firm's* Tier 1 capital.

5 Material holdings in credit and financial institutions (Item 8)

Material holdings comprise:

- (a) where the *firm* holds more than 10 per cent of the equity share capital of the institution, the value of that holding and the amount of any subordinated loans to the institution and the value of holdings in *qualifying capital items* or *qualifying capital instruments* issued by the institution;
- (b) in the case of holdings other than those mentioned in (a) above, the value of holdings of equity share capital in, and the amount of subordinated loans made to, such institutions and the value of holdings in *qualifying capital items* or *qualifying capital instruments* issued by such institutions to the extent that the total of such holdings and subordinated loans exceeds 10 per cent of the *firm's own funds* calculated before the deduction of item 8.

6 Long term qualifying subordinated loans (Item 11)

Loans having the characteristics prescribed by *rule 5.2.5(1)* may be included in item 11, subject to the limits set out in paragraph (1) above.

7 Qualifying arrangements (Item 13)

A *firm* may only include a *qualifying undertaking* or other arrangement in item 13 if it is a *qualifying capital instrument* or a *qualifying capital*.

8 Interim profits

Non-trading book interim profits may only be included in Tier 1 of the calculation if they have been independently verified by the *firm's* external auditors.

For this purpose, the external auditor should normally undertake at least the following:

- (a) satisfy himself that the figures forming the basis of the interim profits have been properly extracted from the underlying accounting records;

- (b) review the accounting policies used in calculating the interim profits so as to obtain comfort that they are consistent with those normally adopted by the *firm* in drawing up its annual financial statements;
- (c) perform analytical review procedures on the results to date, including comparisons of actual performance to date with budget and with the results of prior periods;
- (d) discuss with management the overall performance and financial position of the *firm*;
- (e) obtain adequate comfort that the implications of current and prospective litigation, all known claims and commitments, changes in business activities and provisions for bad and doubtful debts have been properly taken into account in arriving at the interim profits; and
- (f) follow up problem areas of which the auditors are already aware in the course of auditing the *firm*'s financial statements.

A *firm* wishing to include interim profits in Tier 1 capital in a *financial return* should submit to the *FSA* with the *financial return* a verification report signed by its external auditor which states whether the interim results are fairly stated.

Profits on the sale of capital items or arising from other activities which are not directly related to the *investment business* of the *firm* may also be included within the calculation of *liquid capital* if they can be separately verified by the *firm*'s auditors. In such a case, such profits can form part of the *firm*'s Tier 1 capital as audited profits.

9 Short term *qualifying subordinated loans* (Item 15)

Loans having the characteristics prescribed by *rule 5.2.5(3)* may be included in item 15 subject to the limits set out in paragraph (1) above. Tier 2 capital which exceeds the ratios prescribed by paragraph (1)(a) and (c) may be included in item 15 subject to paragraph (1) above.

10 Illiquid assets (Item 14)

Illiquid assets comprise:

- (a) tangible fixed assets;

Note

In respect of tangible fixed assets purchased under finance leases the amount to be deducted as an illiquid asset shall be limited to the excess of the asset over the amount of the related liability shown on the balance sheet.

- (b) holdings in, including subordinated loans to, *credit* or *financial institutions* which may be included in the *own funds* of such *institutions* unless they have been deducted under item 8;
- (c) any *investment* in undertakings other than *credit institutions* and other *financial institutions* where such *investments* are not readily realisable;
- (d) any deficiency in net assets of a *subsidiary*;
- (e) deposits not available for repayment within 90 days (except for

payments in connection with margined futures or options contracts);

Note

Where cash is placed on deposit with a maturity of more than 90 days but is repayable on demand subject to the payment of a penalty, then this is not required to be deducted as an illiquid asset but a deduction is required for the amount of the penalty.

- (f) loans, other debtors and accruals not falling due to be repaid within 90 days or which are more than one month overdue by reference to the contractual payment date;
- (g) physical stocks (except where subject to the *position risk requirement* as set out in Table 5.2.3(5)(b); and
- (h) prepayments to the extent that the period of prepayment exceeds thirteen weeks.

11 *Qualifying property* (Item 17)

This item comprises the qualifying amount calculated in accordance with *rule* 5.2.6(1).

7.4 APPLICATION OF CERTAIN RULES IN CHAPTER 5 OF IPRU(INV)

7.4.1 R (1) The following *rules* in *IPRU(INV)5* apply to a *firm* in respect of *qualifying subordinated loans, qualifying property, qualifying undertakings, records and consolidated supervision*:

(a) *rules* 5.2.5(1) to 5.2.5(7);

(b) *rules* 5.2.6(1) to 5.2.6(3);

(c) *rules* 5.3.1(1) and 5.3.1(4) to 5.3.1(6); and

(d) *rules* 5.7.1(1), 5.7.1(2)(b) and (c), 5.7.1(3) and 5.7.1(4).

(2) In the applicable *rules* in *IPRU(INV) 5* references to:

(a) table 5.2.2(1) are to be construed as references to Table 7.3.1R;

(b) *rule* 5.2.3(1) are to be construed as references to *rule* 7.2.1R;

(c) *rule* 5.3.1(3) are to be construed as references to *rule* 7.6.2R;

(d) *rule* 5.2.1(2) are to be construed as references to *rule* 7.2.1R(1);

(e) *rule* 5.5.1(1) are to be construed as references to *rule* 7.5.2R; and

(f) *liquid capital requirements* are to be construed as references to the liquid capital resource requirement calculated in accordance with *rule* 7.2.3R.

7.4.2 R (1) *Rules* 5.2.7(2) to 5.2.7(4) in *IPRU(INV) 5* apply to a *UCITS investment firm* in regard to *large exposures* in respect of its *designated investment business* other than when undertaking *scheme management activity*.

(2) References in the applicable *IPRU(INV) 5* *rules* to *firm* or to *ISD firm* are to be construed as references to a *UCITS investment firm*.

7.5 FINANCIAL NOTIFICATION

7.5.1 G *Rule* 7.5.2 R applies instead of *rule* 5.5.1(1) (Financial Notification).

7.5.2 R A *UCITS investment firm* must notify the *FSA* in writing as soon as it has reason to believe that any of the following has occurred:

(1) a *counterparty* in a repo or reverse repo transaction has defaulted; or

- (2) the *firm* is in breach of the requirement to maintain *initial capital* equal to or in excess of €125,000; or
- (3) the *firm* is in breach of the *large exposures* limits set out in *rule 5.2.7(3)*.

7.6 RECORDS

7.6.1 G *Rule 7.6.2R* applies instead of *rule 5.3.1(3)* (Records).

7.6.2 R A *firm* must ensure that proper accounting records are kept in English to show and explain the *firm's own account transactions*.

Annex D

Amendments to the Conduct of Business sourcebook (COB)

In this Annex, underlining indicates new text.

4 Table Miscellaneous Transitional Rules

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
10	<u>COB 7.1.14</u>	R	<p style="text-align: center;"><u>UCITS management company</u></p> <p><u>COB 7.1.14 R does not take effect in relation to any discretionary management undertaken in accordance with a <i>client agreement</i> entered into before 12 February 2004.</u></p>	<p style="text-align: center;"><u>From 13 February 2004 to 12 February 2007</u></p>	<u>13 February 2004</u>

After *COB 7.1.13R*, insert the following new rule:

UCITS management company

7.1.14 R In addition to *COB 7.1.3R*, a *UCITS management company* which also *manages investments* (other than of *collective investment schemes*) must obtain prior general approval from the *client* before it invests all or part of the *client's* portfolio in the *units* of a *UCITS* it manages.

Annex E

Amendments to the Authorisation manual (AUTH)

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

- 3.17.2 G Applicants seeking to establish a *collective investment scheme* or to act as manager of a *regulated collective investment scheme* should note the *rule* in *CIS 16.5*, which implements article 65 of the *UCITS Directive* and restricts the activities of ~~a manager of an authorised unit trust fund manager of a~~ *collective investment scheme* which is a *UCITS scheme* to the activities stated in that rule.
- 3.17.3 G ~~[Deleted] An applicant which wishes to act as manager of an authorised unit trust which is a UCITS scheme should note the restriction on the activities it may engage in (see CIS 16.5 (Managers of UCITS Schemes)).~~
- 3.17.4 G *A firm* which is subject to the rule in *CIS 16.5* may, ~~however~~ in addition, carry on ‘connected activities’ referred to in *CIS 16.5*, which include management of *PEPs*, *ISAs* and *stakeholder pension schemes*, as long as they are dedicated to investments in unit trusts and *OEICs* for which the *firm* acts as *manager* or *ACD*. The Enquiries and Applications Department (Applications team) would be pleased to discuss any other activities which potential applicants consider may be connected.
- ...
- 5.3.2 G (1) On qualifying for *authorisation*, subject to AUTH 5.3.2G(1A), an *EEA firm* will have *permission* to carry on each permitted activity (see (2) ~~below~~) which is a *regulated activity*:
- (a) through its *UK branch* (if it satisfies the *establishment conditions*); or
 - (b) by providing *crossborder services* into the *United Kingdom* (if

it satisfies the *service conditions*).

(1A) (a) Paragraph (1) does not apply to the activity of *dealing in units in a collective investment scheme* in the *United Kingdom* where:

(i) the *firm* is an *EEA UCITS management company*;

(ii) the *firm* satisfies the *establishment conditions* in *AUTH 5.4.2G*; and

(iii) the *FSA* notifies the *EEA firm* and the *EEA firm's Home State regulator* that the way in which it intends to market a *relevant scheme* in the *United Kingdom* does not comply with the law in force in the *United Kingdom*.

(b) The *FSA's* notice under (1A)(a)(iii) has to be given to the *EEA firm* within two months of receiving the *consent notice (AUTH 5.4.2G(1))* and will be similar to a *warning notice*.

(c) For details of the *FSA's* procedures for the giving of *warning notices* and references to the *Tribunal*, see *DEC 2.2 (Statutory notice procedure: Warning notice and decision notice procedure)* and *DEC 5 (References to the Tribunal, publication and services of notices)*.

...

...

5.5.3 G Before an *EEA firm* exercises an *EEA right* to provide *cross border services* into the *United Kingdom*, the *Act* requires it to satisfy the *service conditions*, as set out in paragraph 14 of Part II of Schedule 3 to the *Act*. These conditions are that:

- (1) the *EEA firm* has given its *Home State regulator* notice of its intention to provide *cross border services* in the *United Kingdom* (a notice of intention);
- (2) if the *EEA firm* is passporting under ~~either~~ the *Investment Services Directive* ~~or~~ the *Insurance Directives*; or the *UCITS Directive*, the *FSA* has received notice (“a regulator’s notice”) from the *EEA firm’s Home State regulator* containing the information prescribed under regulation 3 of the *EEA Passport Rights Regulations* (see *AUTH 5 Annex 2G*); and
- (3) if the *EEA firm* is passporting under the *Insurance Directives*, its *Home State regulator* has informed the *EEA firm* that it has sent the regulator's notice to the *FSA*.

...

5 Annex 1

G Establishment of a branch: Contents of Consent Notice

1 Table

Type of firm	Para n.	Contents of consent notice (Regulation 2)
<i>Investment firm</i>	...	...
<i>EEA UCITS management company</i>	(2A)(a)	a statement that the <i>firm</i> is an <i>EEA UCITS management company</i> ;
	(b)	the <u>requisite details of the branch</u> ; and
	(c)	details of any compensation scheme which is <u>intended to protect the branch’s investors</u> .
<i>Credit institution</i>	...	...

...

5 Annex 2

G Provision of services: Contents of regulator's notice

1 Table

Type of firm	Para n.	Contents of consent notice <u>regulator's notice</u> (Regulation 2 <u>3</u>)
<i>Investment firm</i>	...	...
<u><i>EEA UCITS management company</i></u>	(2A)(a) (b) (c)	<p>a statement that the <i>firm</i> is an <u><i>EEA UCITS management company</i></u>;</p> <p><u>particulars of the programme of operations to be carried on in the <i>United Kingdom</i> including a description of the particular activities which the <i>firm</i> is seeking to carry on in the <i>United Kingdom</i> in the exercise of an <i>EEA right</i>; and</u></p> <p><u>details of any compensation scheme which is intended to protect investors.</u></p>
<i>Insurance undertaking</i>	...	...

Annex F

Amendments to the Supervision Manual (SUP)

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

Transitional provisions

2 Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
9	<i>SUP</i> 12.5.5R <i>SUP</i> 12.5.7R	R	Appointed representatives...	...	...
<u>9A</u>	<u><i>SUP</i></u> <u>15.8.4</u>	<u>R</u>	<u>Notification of Delegation</u> <u>(1) Subject to (2), <i>SUP</i> 15.8.4 R does not apply to a <i>UCITS management company</i> which became <i>authorised</i> before 13 February 2004.</u> <u>(2) Paragraph (1) does not apply in relation to any <i>UK firm</i> which exercises an <i>EEA right</i> under the <i>UCITS Directive</i> (in which event the rule applies in relation to acts of delegation occurring on or after the date on which the firm begins to exercise such rights).</u>	<u>From 13 February 2004 to 13 February 2007</u>	<u>13 February 2004</u>
...					

...

3.1.2 RTable: Applicable sections (see SUP 3.1.1R)

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(7) <i>Investment management firm, personal investment firm (other than a small personal investment firm), UCITS management company, or securities and futures firm (Note 3)</i>	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8 – SUP 3.10

...

3.1.10 G Table: Other relevant sections of the Handbook (see SUP 3.1.9G)

<i>Investment management firm, personal investment firm, securities and futures firm, UCITS management company</i>	IPRU(INV)
--------------------------------------------------------------------------------------------------------------------	-----------

...

3.9.5 R Table: Auditor's report

...	<p>(6) the relevant financial reporting statement has been properly prepared in accordance with the <i>FSA's rules</i>, the relevant financial reporting statement being, in the case of:</p> <p>...</p> <p><u>(d) a UCITS management company: the annual financial return (see SUP 16.7.68R);</u></p>
...	<p>(10) the <i>firm</i> (not being a <i>corporate finance advisory firm</i> or an <i>OPS firm</i>) has calculated its expenditure requirement in accordance with the relevant <i>rules</i> for the forthcoming year, the relevant <i>rules</i> being, in the case of:</p>

...	...
...	<u>(f) a UCITS management company: IPRU(INV) 7.2.3R and 7.2.4R;</u>
(13)	the <i>firm</i> has kept proper accounting records in accordance with the <i>rules</i> throughout its financial year, the relevant <i>rules</i> being, in the case of:
...	...
...	<u>(e) a UCITS management company: IPRU (INV) 7.4.1R;</u>

...

3.9.7 R An auditor of a *firm* must submit a report under SUP 3.9.4R(1) after each *accounting reference date* of the *firm* and so has to be received by the FSA within:

...

(2) in the case of an auditor of a *personal investment firm*, a UCITS management company or an *investment management firm*, four months of the *firm's accounting reference date*.

...

3.10.5 R Table: Client assets report

whether in the auditor's opinion	
...	...
(3)	In the case of an <i>investment management firm</i> , <i>personal investment firm</i> , <u>a UCITS management company</u> or <i>securities and futures firm</i>
...	...
...	...

...

13.3.5 G (1) If a *UK firm* has given the FSA a notice of intention in the required form, then:

(a) if the *UK firm's EEA right* derives from the *Banking Consolidation Directive*, ~~or~~ the *Investment Services Directive* or the UCITS

Directive, the FSA will give the *Host State Regulator* a *Consent Notice* within three months unless it has reason to doubt the adequacy of a *UK firm's* resources or its administrative structure;

...

...

13.3.7 G ...

- (2) If the *FSA* decides to refuse to give a *consent notice*, then paragraph 19(12) of Part III of Schedule 3 to the *Act* requires the *FSA* to give the *UK firm* a *decision notice* within three months of the date on which it received the *UK firm's* notice of intention (two months in the case of a *UK firm* which is a *UCITS management company*). The *UK firm* may refer the matter to the *Tribunal*.

...

...

13.4.3 G (1) If the *EEA right* is derived from the *Investment Services Directive*, the *Banking Consolidation Directive* or the *UCITS Directive*, the *FSA* has one month to notify the relevant *Host State regulator*;

...

...

13.4.4 G If a *UK firm* has given the *FSA* a notice of intention in the required form, then:

- (1) if the *UK firm's EEA right* derives from the *Investment Services Directive*, ~~or the *Banking Consolidation Directive*~~; or the *UCITS Directive*, paragraph 20(3) of Part III of schedule 3 to the *Act* requires the *FSA* to send a copy of the notice of intention to the *Host State Regulator* within one month of receipt; or

...

...

13.4.6 G (1) If the *UK firm* is passporting under the *Investment Services Directive* or *UCITS Directive*, then when the *Host State regulator* receives the notice of intention, it should inform the *UK firm* of any *applicable provisions*.

...

...

Firms passporting under the Investment Services Directive, the Banking Consolidation Directive and the UCITS Directive

13.6.4 G If a *UK firm* has exercised an *EEA right* under the *Investment Services Directive*, ~~or~~ the *Banking Consolidation Directive* or the *UCITS Directive*, and established a *branch* in another *EEA State*, regulation 11(1) states that the *UK firm* must not make a change in the *requisite details* of the *branch* (see *SUP 13 Ann 1R*), unless it has satisfied the requirements of regulation 11(2), or, where the changes arise from circumstances beyond the *UK firm's* control, regulation 11(3)(see *SUP 13.6.10G*).

...

Firms passporting under the Investment Services Directive and the UCITS Directive

13.7.3 G If a *UK firm* is passporting under the *Investment Services Directive* or the *UCITS Directive*, regulation 12(1) states that the *UK firm* must not make a change in its programme of operations, or the activities to be carried on under its *EEA right*, unless the relevant requirements in regulation 12(2) have been complied with. These requirements are:

...

...

13 Ann 1R

Requisite Details: branches

1 Table R

	Type of firm	Requisite details (see notes 1&2)	
<u>1</u>	<i>Credit Institution</i> or <i>Investment firm</i>	(a)	particulars of the programme of operations carried on, or to be carried on, from the <i>branch</i> , including a description of the particular <i>EEA</i> activities to be carried on, and of the structural organisation of the <i>branch</i> ;
		(b)	the address in the <i>EEA State</i> in which the <i>branch</i> is, or is to be, established from which information about the business may be obtained; and
		(c)	the name of the managers of the <i>branch</i> .

<u>2</u>	<u>UCITS management company</u>		The information required under 1 above, plus: <u>the EEA State within the territory of which the UCITS management company plans to establish a branch;</u> -
<u>3</u>	<u>Insurance undertaking</u>	...	...

...

13 Ann 3R

Requisite and relevant details: Cross Border Services

1 Table R

	Type of firm	Requisite / relevant details	
<u>1</u>	<i>Investment firm</i>	Requisite Details	
		(a)	details of the programme of operations, stating in particular the service or services of the <i>UK firm</i> intends to provide.
<u>2</u>	<u>UCITS management company</u>	(a)	The information required under 1 above, plus: <u>the EEA State within the territory of which the UCITS management company plans to establish a branch;</u> -
<u>3</u>	<u>Insurance undertaking</u>	...	...

...

Firms passporting under the Investment Services Directive, the Banking Consolidation Directive and the UCITS Directive

14.2.2 G (1) Where an *incoming EEA firm*, passporting under the *Investment Services Directive*, ~~or Banking Consolidation Directive~~ or the UCITS Directive, has established a *branch* in the *United Kingdom*, regulation 4 states that it must not make a change in the *requisite details* of the

branch (see AUTH 5 Ann 1G) unless it has complied with the relevant requirements.

...

- 14.3.1 G Where an *incoming EEA firm* passporting under the *Investment Services Directive*, *UCITS Directive* or *Insurance Directives* is exercising an *EEA right* and is providing *cross border services* into the *United Kingdom*, the *EEA Passport Rights Regulations* govern any changes to the details of those services. Where an *incoming EEA firm* has complied with the relevant requirements in the *EEA Passport Rights Regulations*, then the *firm's permission* given under Schedule 3 to the *Act* is to be treated as varied accordingly.

Firms passporting under the Investment Services Directive and UCITS Directive

- 14.3.2 G Where an *incoming EEA firm* passporting under the *Investment Services Directives* or *UCITS Directive* is providing *cross border services* into the *United Kingdom*, it must not make a change in the details referred to in regulation 5(1) (see AUTH 5 Ann 2G) unless it has complied with the relevant requirements in regulation 5(3).

...

After SUP 15.8.3R, insert the following new section:

Delegation by UCITS management companies

- 15.8.4 R A UCITS management company must notify the FSA as soon as reasonably practicable if it delegates any of its functions to a third party.
- 15.8.5 G A UCITS management company which delegates any of its functions to a third party must, as well as complying with SUP 15.8.4 R, comply with the requirements in CIS 7.6.1 R (2) or CIS 7.10.4 R(1) as appropriate.

...

16.1.3 R Table: application of different sections of SUP 16

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
...
SUP 16.7	<i>ELMI</i>	SUP 16.7.64.R to SUP 16.7.66R..
	<u>UCITS management company</u>	<u>SUP 16.7.67R to SUP 16.7.72R</u>
...

...

16.7.5 G Table Applicable rules and guidance on financial reports (see SUP 16.7.1G)

Firm category	Applicable rules and guidance
...	...
<i>ELMI</i>	SUP 16.7.64R–SUP 16.7.66R
<u>UCITS Management Company</u>	<u>SUP 16.7.67R–SUP 16.7.72R</u>
....	

...

After SUP 16.7.66R, insert the following new section:

UCITS Management Companies

16.7.67 R A *UCITS management company* must submit reports to the *FSA* in accordance with SUP 16.7.68R.

16.7.68 R Table: Financial reports from a *UCITS management company* (see *SUP 16.7.67R*)

Report	Frequency	Due date
Annual Financial Return (Note 1)	Annually	4 months after the <i>firm's</i> accounting reference date
Annual accounts (Note 1)	Annually	4 months after the <i>firm's</i> accounting reference date
Annual solvency statement (only for individuals in partnership) (Note 2)	Annually	At the same time as the Annual Financial Return
Quarterly Financial Return (Note 3)	Quarterly	1 month after quarter end

Note 1: The Annual Financial Return and the annual accounts of a *firm* must together give a true and fair view of the state of affairs of the *firm* (or in the case of a *sole trader*, of his *regulated activities*) and of the *firm's* profit or loss.

Note 2: The annual solvency statement is a statement from each *partner* in the following form: 'I certify that I have sufficient assets to cover my personal liabilities.'

Note 3 A *firm* must therefore prepare four Quarterly Financial Returns each year. One Quarterly Financial Return must be prepared to the same date as the Annual Financial Return (but submitted earlier). Quarterly Financial Returns are not cumulative, and must relate only to the period concerned. A *firm* may need to prepare more frequent accounts, including financial resources statements, for its own internal use to ensure that it complies at all times with the *rules* in *IPRU(INV)*.

16.7.69 R A *UCITS management company* must submit the required reports in accordance with, and in the same format as, the forms contained in *SUP 16 Ann 16R*, and according to the requirements contained in section 3 of that annex.

16.7.70 G The *FSA* expects the annual accounts to be submitted together with the auditor's report required by *SUP 3.9.4R*.

Reporting periods

16.7.71 R The period covered by:

- (1) quarterly financial returns may not exceed three *months*; and
- (2) annual financial returns may not exceed twelve *months*.

Timely reporting

16.7. 72 R A *UCITS management company* must notify the *FSA* in writing as soon as it has reason to believe it will be unable to submit an annual or quarterly financial return by the dates specified in *SUP 16.7.68R*. Such notice must specify why it cannot submit the report to the *FSA* on time and give the date by which it will submit the report to the *FSA*.

...

After *SUP 16 Ann 15R*, insert the following new Annex:

16 Ann 16R: UCITS management companies reporting forms and requirements applying to their completion

1. Annual Financial Return
2. Quarterly Financial Return
3. Requirements applying to the completion of annual and quarterly financial returns

Financial Return
UCITS Management Companies
Annual Financial Return

For the year ended _____

Name of Firm _____

FSA firm reference number _____

Date of Audit Opinion _____

For FSA use

Date received _____

Entered _____

Completed _____

For the period from _____ (date) to _____ (date)

(Accounting Reference Date)

£000

Dealing Profit/(Loss)

Dealing profit or (loss) – long term investments _____ (1)

Charges on unit trust sales/redemptions _____ (2)

Total dealing profit or (loss) [(1+2)] ===== (3)

Revenue

Commission _____ (4)

Investment management fees _____ (5)

UCITS management fees _____ (6)

Other revenue _____ (7)

Total revenue [(4) to (7)] ===== (8)

Expenditure

Commissions and fees _____ (9)

Exceptional items (specify below) _____ (10)

Other expenditure _____ (11)

Total expenditure (to UAFS5) [(9) to (11)] ===== (12)

Profit or (loss) on ordinary activities
before taxation [(3)+(8)-(12)] _____ (13)

Taxation _____ (14)

Extraordinary items net of attributable taxation _____ (15)

Profit or (loss) after taxation and
extraordinary items [(13)-(14 + 15)] ===== (16)

Appropriations _____ (17)

Retained profit or (loss) for the period [(16)-(17)] ===== (18)

Details of exceptional items of expenditure

Balance Sheet - UCITS Management Companies

UAFS 2

As at _____ (*Accounting Reference Date*)

£000

Fixed Assets

Intangible assets	_____	(19)
Tangible assets	_____	(20)
Investments	_____	(21)
Total fixed assets [(19) to (21)]	=====	(22)

Current Assets

Investments	_____	(23)
Debtors	_____	(24)
Bank and cash balances	_____	(25)
Total current assets [(23) to (25)]	=====	(26)

Creditors: Amounts falling due within one year

Net current assets (liabilities)[(26)-(27)]	=====	(28)
---------------------------------------------	-------	------

Total assets less current liabilities [(22)+(28)]	=====	(29)
---------------------------------------------------	-------	------

Creditors: Amounts falling due after more than one year

=====	(30)
-------	------

Provisions for Liabilities and Charges

Total assets less total liabilities [(29)-(30)-(31)]	=====	(32)
------------------------------------------------------	-------	------

Capital and Reserves

(Indicate constituent items from UAFS3)

=====	
-------	--

Off Balance Sheet Items (detailed below with values)

(33)

--

Financial Resources

Note: The references in brackets are to the items of capital IPRU(INV) Table 7.3.1 Part 1

	£000	£000
<u>Tier 1</u>		
Paid up share capital (excluding preference shares) <i>(Item 1)</i>		_____ (34)
Share premium account <i>(Item 2)</i>		_____ (35)
Audited reserves <i>(Item 3)</i>		_____ (36)
Non-cumulative preference shares <i>(Item 4)</i>		_____ (37)
Less: Investment in own shares <i>(Item 5)</i>	_____	
Intangible assets <i>(Item 6)</i>	_____	
Material current year losses <i>(Item 7)</i>	_____	
Material holdings in credit and financial institutions <i>(Item 8)</i>	_____	_____ (38)
Initial capital [34 to 37-38]		===== (39)
<u>Tier 2</u>		
Revaluation reserves <i>(Item 9)</i>		_____ (40)
Fixed term cumulative preference share capital <i>(Item 10)</i>		_____ (41)
Long term Qualifying Subordinated Loans <i>(Item 11)</i>		_____ (42)
Other cumulative preference share capital and debt capital <i>(Item 12)</i>		_____ (43)
Qualifying arrangements <i>(Item 13)</i>		_____ (44)
Own funds [39+40 to 44]		===== (45)
<u>Tier 3</u>		
Less Illiquid assets <i>(Item 14)</i>		===== (46)
Financial resources [45-46]		===== (47)
Short term Qualifying Subordinated Loans and excess Tier 2 capital <i>(Item 15)</i>		_____ (48)
Qualifying Property <i>(Item 17)</i>		_____ (49)
Liquid capital [47+48+49]		===== (50)

Financial Resources Requirements for all UCITS Management Companies

	£000	£000
<u>Test 1</u>		
Initial Capital Test		
Initial capital (<i>line 41</i>)		_____ (51)
Initial capital requirement (€ 125,000)		(_____) (52)

Surplus/ Deficit of Initial Capital (51-52)		===== (53)
 <u>Test 2</u>		
Financial Resources Test		
Financial resources (<i>line 47</i>)		_____ (54)
Less the higher of :		
€ 125,000	_____	(55)
Plus : Funds Under Management over € 250m X 0.02%	_____	(56)
Total (55+56 is subject to a maximum of € 10m)		(_____) (57)
and		
13/52 of annual audited fixed expenditure (<i>IPRU(INV) Rule 7.2.2(2) -form UAFS5</i>)		(_____) (58)
Surplus/Deficit of financial resources [54-57 or 58]		===== (59)
 <u>Test 3</u> (applicable to UCITS Investment Firms only)		
Liquid Capital Resource Test		
Liquid capital (<i>line 50</i>)		_____ (60)
13/52 of Annual Audited Fixed Expenditure (<i>IPRU(INV) Rule 7.2.3 -form UAFS5</i>)		_____ (61)
Position Risk Requirement (<i>IPRU(INV) Table 5.2.3(5)(b)</i>)	_____	(62)
Counterparty Risk Requirement (<i>IPRU(INV) Table 5.2.3(5)(c)</i>)	_____	(63)
Foreign Exchange Requirement (<i>IPRU(INV) Table 5.2.3(5)(d)</i>)	_____	(64)
Other Assets Requirement (<i>IPRU(INV) Table 5.2.3(5)(e)</i>)	_____	(65)
Liquid Capital Resource Requirement [61 to 65]		(_____) (66)
		=====
Surplus/Deficit of liquid capital [60-66]		===== (67)

Calculation of financial resources requirement for forthcoming year-UCITS Management Companies

UAFS 5

	£000	£000
Annual Audited Fixed Expenditure		
Total Expenditure (per profit and loss account UAFS1 line (12))		_____
Less: Staff bonus, except to the extent that they are guaranteed	(_____)	
Employees' and Directors' shares in profits, except to the extent that they are guaranteed	(_____)	
Other appropriations of profits	(_____)	
Allowable commission and fees	(_____)	
Interest charges in respect of borrowings made to finance the acquisition of the Firm's Readily Realisable Investments	(_____)	
Interest paid to customers on client money	(_____)	
Interest paid to counterparties	(_____)	
Fees, brokerage and other charges paid to clearing houses, exchanges and intermediate brokers for the purposes of executing, registering or clearing transactions	(_____)	
Foreign exchange losses	(_____)	
Other variable expenditure	(_____)	
Audited Fixed Expenditure		=====
Annual Audited Fixed Expenditure		=====
(pro-rated where relevant to annual amount)(IPRU(INV)7.2.4(2))		
Expenditure Based Requirement (13/52 of Annual Audited Fixed Expenditure) (68)		=====

***Note:** The annual audited fixed expenditure calculated above becomes effective from the date on which this Annual Financial Return is approved by the auditor. At all times throughout the period from this date until the next Annual Financial Return is approved, the Firm's Financial Resources must satisfy its Financial Resources Requirement incorporating the above Requirement.*

(Not subject to audit)

£000

1. FUNDS UNDER MANAGEMENTValue of total funds under management
at Accounting Reference Date

_____ (69)

2. CLIENT MONEY AND ASSETSDuring the period, has the Firm
held Client Money? **

*YES/NO (70)

During the period, has the Firm
held customers' assets? **

*YES/NO (71)

3. LARGE EXPOSURES (*UCITS Investment Firms only*)

Provide details of all Large Exposures outstanding at the end of the period

(72)

**Counterparty
Item****Value of Exposure****Percentage of Own Funds****Nature of***(e.g. Accrued
fees, billed
fees,
settlement
balance etc)***Delete whichever is not applicable****Consider by reference to Part IV Permission Statement*

This Annual Financial Return has been properly prepared in accordance with the rules,
and was approved by the Firm on(date).

It is accompanied by the Annual Accounts and the report of the auditor to the FSA as required by the rules.

SIGNATURE AND DECLARATION

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.

Signed on behalf of the Firm by:

.....(authorised signatory).....(date)

.....(authorised signatory).....(date)

Financial Return

UCITS Management Companies

Quarterly Financial Return

For the quarter ended _____

Name of Firm _____

FSA firm reference number _____

For FSA use

Date received _____

Entered _____

Completed _____

For the period from _____ (date) to _____ (date)

£000

Dealing Profit/(Loss)

Dealing profit or (loss) – long term investments	_____	(1)
Charges on unit trust sales/redemptions	_____	(2)
Total dealing profit or (loss) [(1)+(2)]	=====	(3)

Revenue

Commission	_____	(4)
Investment management fees	_____	(5)
UCITS management fees	_____	(6)
Other revenue	_____	(7)
Total revenue [(4) to (7)]	=====	(8)

Expenditure

Commissions and fees	_____	(9)
Exceptional items (specify below)	_____	(10)
Other expenditure	_____	(11)
Total expenditure [(9) to (11)]	=====	(12)
Profit or (loss) on ordinary activities before taxation [(3)+(8)-(12)]	_____	(13)
Taxation	_____	(14)
Extraordinary items net of attributable taxation	_____	(15)
Profit or (loss) after taxation and extraordinary items [(13)-(14)+(15)]	=====	(16)
Appropriations	_____	(17)
Retained profit or (loss) for the period [(16)-(17)]	=====	(18)

Details of exceptional items of expenditure

As at _____ (Quarter End Date)

£000

Fixed Assets

Intangible assets _____ (19)

Tangible assets _____ (20)

Investments _____ (21)

Total fixed assets [(19) to (21)] ===== (22)

Current Assets

Investments _____ (23)

Debtors _____ (24)

Bank and cash balances _____ (25)

Total current assets [(23) to (25)] ===== (26)

Creditors: Amounts falling due within One Year _____ (27)

Net current assets (liabilities [(26)-(27)]) ===== (28)

Total assets less current liabilities [(22)+(28)] ===== (29)

Creditors: Amounts falling due after more than One year ===== (30)

Provisions for Liabilities and Charges _____ (31)

Total assets less total liabilities [(29)-(30)-(31)] ===== (32)

Capital and Reserves =====

(Indicate constituent items from UQFS 3)

Off Balance Sheet Items (detailed below with values) (33)

Financial Resources

Note: The references in brackets are to the items of capital IPRU(INV) Table 7.3.1 Part 1

	£000	£000	
Tier 1			
Paid up share capital (excluding preference shares) (Item 1)		_____	(34)
Share premium account (Item 2)		_____	(35)
Audited reserves (Item 3)		_____	(36)
Non-cumulative preference shares (Item 4)		_____	(37)
Less: Investment in own shares (Item 5)	_____		
Intangible assets (Item 6)	_____		
Material current year losses (Item 7)	_____		
Material holdings in credit and financial institutions (Item 8)	_____	_____	(38)
Initial capital [34 to 37-38]		=====	(39)
Tier 2			
Revaluation reserves (Item 9)		_____	(40)
Fixed term cumulative preference share capital (Item 10)		_____	(41)
Long term qualifying subordinated loans (Item 11)		_____	(42)
Other cumulative preference share capital and debt capital (Item 12)		_____	(43)
Qualifying arrangements (Item 13)		_____	(44)
Own funds [39+40 to 44]		=====	(45)
Tier 3			
Less illiquid assets (Item 14)		=====	(46)
Financial resources [45-46]		=====	(47)
Short term Qualifying Subordinated Loans and excess Tier 2 capital (Item 15)		_____	(48)
Qualifying Property (Item 17)		_____	(49)
Liquid capital [47+48+49]		=====	(50)

Financial Resources Requirements for all UCITS Management Companies

	£000	£000	
Test 1			
Initial Capital Test			
Initial capital (<i>line 39</i>)		_____	(51)
Initial capital requirement (€ 125,000)		(_____)	(52)

Surplus/ Deficit of Initial Capital (51-52)		=====	(53)
Test 2			
Financial Resources Test			
Financial resources (<i>line 47</i>)		=====	(54)
Less the higher of :			
€ 125,000	_____		(55)
Plus : Funds Under Management over €250m X 0.02%	_____		(56)
Total (55+56 is subject to a maximum of € 10m)		(_____)	(57)
and			
13/52 of annual audited fixed expenditure (<i>IPRU(INV) Rule 7.2.2(2) -form UAFS 5</i>)		(_____)	(58)
Surplus/Deficit of financial resources [54-57 or 58]		=====	(59)
<u>Test 3</u> (applicable to UCITS Investment Firms only)			
Liquid Capital Resource Test			
Liquid capital (<i>line 50</i>)		_____	(60)
13/52 of Annual Audited Fixed Expenditure(<i>IPRU(INV) Rule 7.2.3 -form UAFS 5</i>)		_____	(61)
Position Risk Requirement (<i>IPRU(INV) Table 5.2.3(5)(b)</i>)	_____		(62)
Counterparty Risk Requirement (<i>IPRU(INV) Table 5.2.3(5)(c)</i>)	_____		(63)
Foreign Exchange Requirement (<i>IPRU(INV) Table 5.2.3(5)(d)</i>)	_____		(64)
Other Assets Requirement (<i>IPRU(INV) Table 5.2.3(5)(e)</i>)	_____		(65)
Liquid Capital Resource Requirement [61 to 65]		(_____)	(66)
		=====	
Surplus/Deficit of liquid capital [60-66]		=====	(67)

Financial returns - UCITS Management Companies

UQFS 5

£000

1. FUNDS UNDER MANAGEMENT

Value of total funds under management
at Quarter End Date

_____ (68)

2. CLIENT MONEY AND ASSETS

During the period, has the Firm
held Client Money?*

*YES/NO (69)

During the period, has the Firm
held customers' assets?*

*YES/NO (71)

3. LARGE EXPOSURES (*UCITS Investment Firms only*)

Provide details of all Large Exposures outstanding at the end of the period

(72)

**Counterparty
Item**

Value of Exposure

Percentage of Own Funds

Nature of

*(e.g. Accrued
fees, billed
fees,
settlement
balance etc)*

*Delete whichever is not applicable

**Consider by reference to Part IV Permission Statement

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. | Is the Firm able and will it be able for the foreseeable future, to meet all of its liabilities as they fall due for payment? | *YES/NO |
| 2. | Have the Firm 's Financial Resources been greater than its Financial Resources Requirement throughout the Quarter? | *YES/NO |

We confirm that:

- (i) The Firm 's Financial Resources have been properly calculated in accordance with the Financial resources rules.
- (ii) All matters (including contingent liabilities, claims and litigation)which might reasonably be expected to have a material effect on the Firm 's financial position at the date of submission of these statements have been declared herewith or notified in writing to the FSA.

SIGNATURE AND DECLARATION

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.

SignedDate
 (Finance Officer or appointed deputy)

SignedDate
 (Second authorised signatory)

**Delete whichever is not applicable*

Section 3: UCITS management companies: requirements applying to the completion of annual and quarterly financial returns

1 Table

(see SUP 16.7.68R)

- 1.1.1 (1) Financial Returns must be in agreement with the underlying accounting records.
- (2) Accounting policies must be consistent with those adopted in the Annual Accounts and must be consistently applied.
- (3) Information required in the Annual and Quarterly Financial Returns must be prepared in accordance with generally accepted accounting practice.
- (4) Investments (other than investments in *subsidiary* and related *companies*) must be included in the balance sheet at cost or market value (or the *directors*' estimate of them).
- (5) The Financial Returns of an individual (or individuals in partnership or association) must deal only with his *regulated activities* (or, in the case of individuals in *partnership* or association, the business of the *partnership* or association).
- (6) The Financial Return of a *firm* must not give a misleading impression of the *firm*.
- 1.1.2 A Financial Return is likely to give a misleading impression if a *firm* wrongly omits or includes a material item, or presents a material item in the wrong way.

...

Appendix 1
Prudential categories and sub-categories

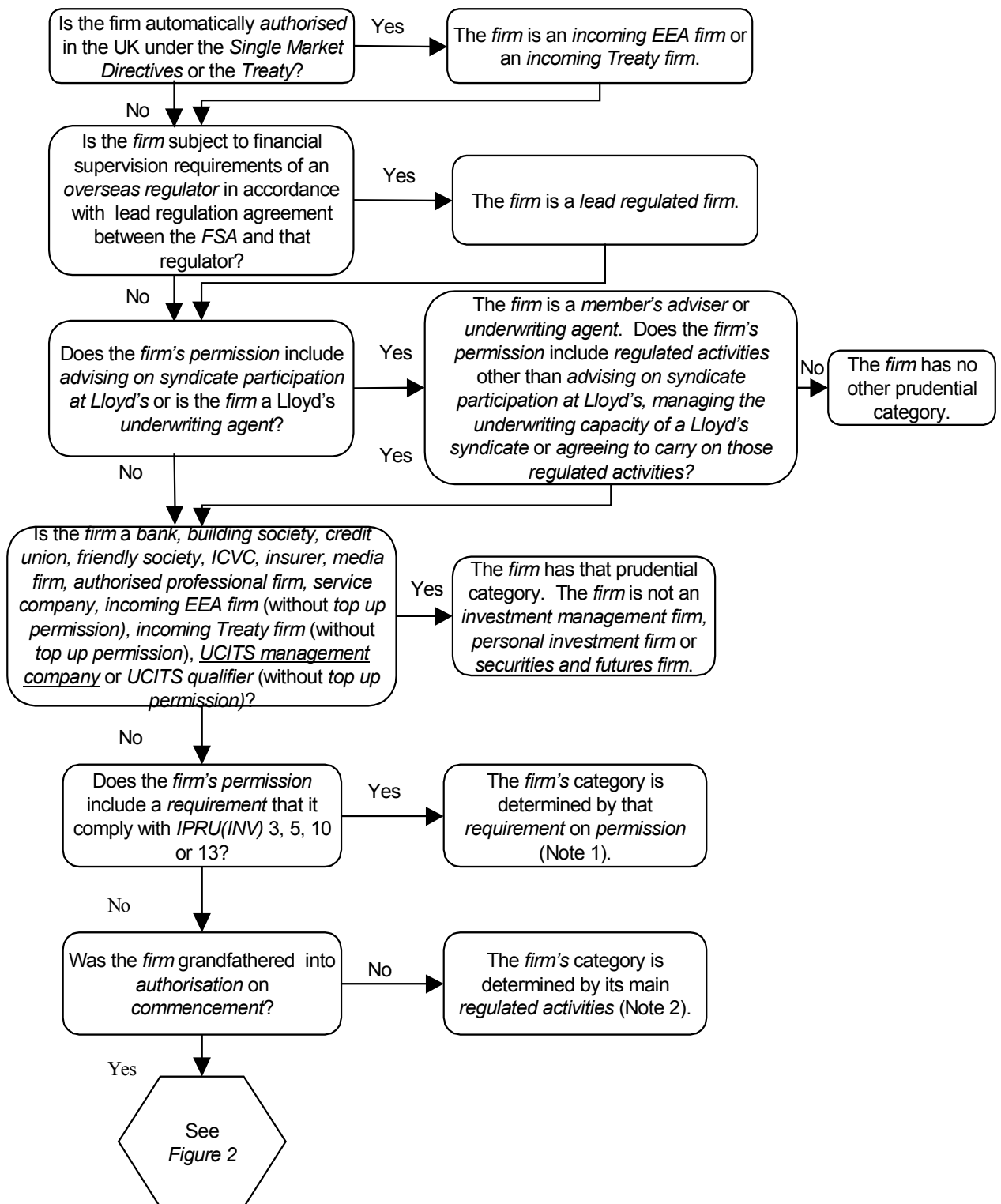
...

1.3.1 G Table Prudential categories and sub-categories used in the Interim Prudential sourcebooks and the Supervision manual

<i>Prudential categories</i> (Note 1)	Applicable prudential requirements (Note 2)	Prudential sub-categories
<i>Securities and futures firm*</i>
...		
<i>Society of Lloyd's*</i>	<i>LLD</i>	
<u><i>UCITS management company*</i></u>	<u><i>IPRU(INV) 1, 5 and 7</i></u>	<u><i>UCITS firm</i></u>
<i>UCITS qualifier</i>	None (unless another prudential category applies)	<u><i>UCITS investment firm</i></u>
...		

1.7 Prudential categories and sub-categories

Figure 1: Determination of a firm's prudential category – general



...

Schedule 2 (Notification requirements)

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
SUP 13.6.5G (1)	Changes to <i>branches</i> (<i>Firms</i> passporting under the <i>Investment Services Directive</i> , the <i>UCITS Directive</i> , and the <i>Banking Consolidation Directive</i>)	Details of proposed change	Change in circumstances within control of <i>UK firm</i>	Before making change

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
SUP 14.2.3G	Change to <i>branch</i> details in circumstances within the control of the <i>firm (firms)</i> passporting under the <i>Investment Services Directive</i> , the <i>UCITS Directive</i> , and <i>Banking Consolidation Directive</i>)	Details of proposed change	Change to <i>branch</i> details	Before making the change

:

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<u>SUP 15.8.4 R</u>	<u>Delegation by UCITS management company</u>	<u>The fact that a function of the UCITS management company has been delegated together with (a) the identity of the party to whom the function has been delegated and (b) the period during which the delegation will apply.</u>	<u>The delegation of a function by a UCITS management company.</u>	<u>As soon as reasonably practicable.</u>

Annex G

Amendments to the Decision making manual (DEC)

In this Annex, underlining indicates new text.

DEC 2

- Annex 1 G Statutory notice procedure: Warning notice and decision notice procedure
- 1 Table: List of warning notices and decision notices under the Act (other than Part IV) and certain other enactments

Section of the Act	Description	Handbook reference	Decision maker
...			
385(1)/386(1)	...	...	...
<u>Paragraph 15(6)(c) of Schedule 3 (Note 3)</u>	<u>when the FSA is notifying/ deciding not to withdraw a notice issued to an EEA UCITS management company wishing to deal in units in a collective investment scheme in the United Kingdom and relevant EEA State authorities, that the way in which the EEA UCITS management company intends to market a relevant scheme in the United Kingdom does not comply with UK law.</u>	<u>AUTH 5</u>	<u>Executive procedures</u>
Paragraph 19 (8)/(12) of Schedule 3	...	...	...

Annex H

Amendments to the Compensation sourcebook (COMP)

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

1.4.1 G *Incoming EEA firms* which are conducting *regulated activities* in the *United Kingdom* under a *BCD₂* ~~or *ISD*~~ or *UCITS Directive* passport are not required to participate in the *compensation scheme* in relation to those *passported activities*. ...

...
~~5.2.2 G Where a *claim* is against a *relevant person* which is:~~

~~(1) an *incoming EEA firm* which is a *credit institution* or *ISD investment firm*; or~~

~~(2) an *appointed representative* of (1);~~

~~the categories of *claim* that are *protected claims* are modified in COMP 14.5. This is because the *DGD* and *ICD* provide that compensation may be available under the *firm's Home State* compensation scheme. [deleted]~~

...

5.5.2 R *COMP 5.5.1R* only applies if the *protected investment business* was carried on from:

(1) an *establishment* of the *relevant person* in the *United Kingdom*; or

(2) a *branch* of a *UK firm* which is:

(a) an *ISD investment firm* (including a *credit institution* which is an *ISD investment firm*), or

(b) a *UCITS management company* established in another *EEA State* (but only in relation to *managing investments* (other than of a *collective investment scheme*), *advising on investments* or *safeguarding and administering investments*);

and the *claim* is an *ICD claim*; or

(3) both (1) and (2).

(4)

...

- 6.2.2G *An incoming EEA firm, which is a credit institution, ~~or~~ an ISD investment firm or a UCITS management company, and its appointed representatives are not relevant persons in relation to the firm's passported activities, unless it has top-up cover (and in the case of a UCITS management company, only in relation to managing investments (other than of a collective investment scheme), advising on investments or safeguarding and administering investments). (See definition of 'participant firm'.)*
- ...
- 14.1.1 R This chapter applies to the FSCS.
- 14.1.2 R This chapter also applies to an incoming EEA firm which is a credit institution or an ISD investment firm (or both), or a UCITS management company.
- 14.1.3 G This chapter provides supplementary rules and guidance for an incoming EEA firm which is a credit institution, ~~or~~ an ISD investment firm or UCITS management company. It reflects the implementation of the *Deposit Guarantee Directive*, ~~and~~ *Investors Compensation Directive*, and UCITS Directive. This sourcebook applies in the usual way to an incoming EEA firm which is exercising EEA rights under the *Insurance Directives*. Such a firm is not affected by the *Deposit Guarantee Directive*, ~~or~~ the *Investors Compensation Directive* or the UCITS Directive.
- 14.1.4 G An incoming EEA firm, which is a credit institution, ~~or~~ an ISD investment firm or UCITS management company is not a 'participant firm' in relation to its passported activities unless it 'tops up' into the compensation scheme (for a UCITS management company, this is only for certain passported activities). This reflects section 213 (10) of the *Act* (The compensation scheme) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons). If an incoming EEA firm also carries on non-passported activities (or, for a UCITS management company, certain passported activities) for which the compensation scheme provides cover, it will be a participant firm in relation to those activities and will be covered by the compensation scheme for those activities in the usual way.
- 14.1.5 G In relation to an incoming EEA firm's passported activities, its Home State compensation scheme must provide compensation cover in respect of business within the scope of the *Deposit Guarantee Directive*, ~~and~~ *Investors Compensation Directive* and article 5(3) of the UCITS Directive, whether that business is carried on from a UK branch or on a cross border services basis. (For a UCITS management company, this is only for certain passported activities.)

...

14.2.3 G A notice under *COMP* 14.2.1R should include details confirming that the *incoming EEA firm* falls within a prescribed category. In summary:

- (1) the *firm* must be a *credit institution*, ~~or~~ an *ISD investment firm* or a UCITS management company;

...

Annex I

Amendments to the Collective Investment Schemes sourcebook (CIS)

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

1 Table Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
20	<u>CIS 16.5.1 (4) to (6)</u>	R	<p><u>A UCITS management company may not carry on any of the activities specified in CIS 16.5.1(4) to (6) unless it is a UCITS investment firm:</u></p> <p><u>(a) whose permission to carry on any such activity was given before 13 February 2004; or</u></p> <p><u>(b) which complies with Chapter 7 of IPRU(INV).</u></p>	From <u>13 February 2004 to 12 February 2007</u>	<u>13 February 2004</u>
21	<u>CIS 16.5.1 (4) to (6)</u>	G	<u>A UK firm will not be able to act as such and exercise an EEA right under the UCITS Directive unless it complies with Chapter 7 of IPRU(INV).</u>		
22	<u>CIS 7.6.1(4) and (5)</u> <u>CIS 7.10.4 (1), (5) and (6)</u>	R	<p><u>(1) Subject to (2), in relation to a UCITS management company which became authorised before 13 February 2004, CIS 7.6.1(4) and (5) and CIS 7.10.4(1), (5) and (6) have effect as they applied before 12 February 2004.</u></p> <p><u>(2) Paragraph (1) does not apply in relation to any UK firm which exercises an EEA right under the UCITS Directive.</u></p>	From <u>13 February 2004 to 12 February 2007</u>	<u>13 February 2004</u>

...

2.2.2 R ...

(7) The instrument of incorporation must not contain a provision preventing its shares being marketed in the United Kingdom.

...

2.2.6 R ...

(10) The trust deed must not contain a provision preventing its units being marketed in the United Kingdom.

...

3.1.3 G ...

(5) In addition COB 6 (Product disclosure) contains rules and guidance relating to information about authorised funds which must be provided or made available at the point of sale.

...

3.2.1 R (1)

A prospectus must contain the matters specified in CIS 3.5 (Information to be contained in the prospectus) and it must be drawn up in English and published as a document by the authorised fund manager and, in the case of an ICVC, approved by the directors.

...

3.2.2 R (1)

An ICVC or the manager of an AUT: must supply a copy of the prospectus drawn up in accordance with CIS 3.2.1R (Drawing up of prospectus) free of charge:

(a) must not market units in an authorised fund in the United Kingdom unless: to any person on request; and

- (i) ~~a *prospectus* has been drawn up in English and approved in accordance with CIS 3.2.1R;~~
 - (ii) ~~arrangements have been made for that *prospectus* to be available to enable the *ICVC* or *manager* of the *AUT* to satisfy those who accept the offer referred to in CIS 3.2.2R(1)(b); and~~
 - (iii) ~~a copy of that *prospectus* has been sent to the FSA and to the depositary;~~
- (b) ~~must not effect any *sale* of those *units* to any *person* in the *United Kingdom* until it has offered that *person* free of charge a copy of that *prospectus* to the *FSA*.~~
- (2) An *ICVC* which is a *UCITS* scheme, or the *manager* of an *AUT* which is a *UCITS* scheme, ~~must not:~~
- (a) must not market *units* in the territory of another *EEA State* unless: a *prospectus* has been drawn up in an official language of that *EEA State* and, in the case of an *ICVC*, approved by the *directors*; and
 - (i) ~~a *prospectus* has been drawn up in an official language of that *EEA State* and, in the case of an *ICVC*, approved by the *directors*; and~~
 - (ii) ~~arrangements have been made for the *prospectus* to be available to enable the *ICVC* or *manager* of the *AUT* to satisfy those who accept the offer referred to in (b) below;~~
 - (b) ~~effect any *sale* of *units* to any *person* in the territory of that *EEA State* until it has offered that *person* free of charge a copy of that must supply the *prospectus* to any purchaser of *units* free of charge on request. before the~~

conclusion of that sale.

...

3.5.2 R Table Contents of the prospectus

This table belongs to CIS 3.5.2R

...

3 Investment objectives and policy

...

(15) In the case of a UCITS scheme, the historical performance in accordance with COB.

(16) In the case of a UCITS scheme, the profile of the typical investor for whom the scheme is designed.

...

6 ...

(14) In the case of a UCITS scheme, which functions the authorised fund manager may delegate.

...

23 ...

(6) In the case of a UCITS scheme, any possible fees or expenses not described in paragraphs 12-22, distinguishing between those to be paid by a holder and those to be paid out of scheme property.

...

7.1.4 G (1) The OEIC regulations require:

...

...

- (b) that if an *ICVC* has only one *director*, that *director* must be a *body corporate* which is an *authorised person* and has ~~permission under Part IV of the Act (Permission to carry on regulated activities)~~ to act as a *director* of an *ICVC*,

...

...

- (3) Each *ICVC* must have an *ACD* (or equivalent). ...

...

...

- 7.2.1 R (1) If there is only one director of the type described in *CIS* 7.1.4G(1)(b) it must be an *ACD* or an *EEA UCITS management company*, ...
 - (1A) If an *EEA UCITS management company* is the sole *director*, that *company* must carry out the functions of the *ACD* as set out in *CIS* 7.3.1R (Functions of the *ACD*).

...

...

- 7.6.1 R ...
 - (2) The *ACD* or the *directors* have the power to retain the services of anyone, including the depositary, to assist the *ACD* or the *directors* (as the case may be) to perform their respective functions, provided that:
 - (a) a mandate in relation to *managing investments* of the *scheme property* is not given to:
 - (i) the *depositary*;

- (ii) any other person whose interests may conflict with those of the ACD or the holders; or
 - (iii) any other person who is not authorised or registered for managing of investments and is not subject to prudential supervision (unless there is agreement in place between the FSA and the overseas regulator of the delegate ensuring adequate co-operation);
- (b) the ACD ensures that at all times it may monitor effectively the relevant activities of any person so retained; and
- (c) the mandate permits the ACD to:
 - (i) give further instructions to the person so retained; and
 - (ii) withdraw the mandate with immediate effect when this is in the interests of the holders.
- (d) the mandate does not prevent effective supervision of the ACD and it must not prevent the ACD from acting, or the scheme from being managed, in the best interests of the holders.

...

- (4) ~~If:-~~
 - (a) ~~the ACD retains the services of (or causes the ICVC to retain the services of) anyone to assist the ACD to perform any function concerning the management of the scheme property of the ICVC; or~~
 - (b) ~~the ACD or the directors of the ICVC retain the services of (or cause the ICVC to retain the services of) the depository, or an associate of any of the directors of the~~

~~ICVC or of the depositary, to assist the ACD or the directors (as the case may be) to perform any of their respective functions; or in~~

- ~~(e) the depositary retains the services of a *director* of the ICVC or an associate of such a *director* or of the depositary to assist the depositary to perform the functions of the depositary~~

~~then, in the case of (a), the ACD and in the case of (b), the ACD or the *directors* and in the case of (c), the depositary, remains responsible for the acts or omissions of the *person* retained as if they were the acts or omissions of the ACD or of the *directors* or of the depositary (as the case may be). Subject to the provisions of the OEIC Regulations and to (1) where services are retained under (2) the responsibility which the ACD had in respect of such services prior to that retention of services will remain unaffected.~~

- ~~(5) Subject to the provisions of the OEIC regulations and to (1) and (4), a *person* retaining services under (2) or (3) will not be held responsible by the FSA by virtue of the *rules* in CIS for any act or omission of the *person* so retained if the *person* retaining services can show: Where a *depositary* retains services under (3):~~

- ~~(a) that it was reasonable for the *person* retaining services to obtain assistance to perform the function in question; if it retains the services of a *director* of the ICVC, or an associate of such a *director* or its own *associate* to assist in the performance of its functions, then its liability in respect of those services shall remain unaffected, and~~
- ~~(b) that the *person* retained was and remained competent to~~

~~provide assistance in the performance of the function in question; and in any other case it will not be held responsible by virtue of the *rules* in *CIS* for any act or omission of the *person* so retained if it can show:~~

~~(i) that it was reasonable for it to obtain assistance to perform the function in question;~~

~~(ii) that the *person* retained was and remained competent to provide assistance in the performance of the function in question; and~~

~~(e) (iii) that the *person* retaining services it had taken reasonable care to ensure that the assistance in question was provided by the *person* retained in a competent manner.~~

(6) ~~At any time when *CIS* 7.2.1R(5)(The directors) applies, the *directors* have, in respect of the functions conferred on the *ACD* in accordance with *CIS* 7.3.1R (The *ACD*), the same rights to retain the services of other *persons* to assist in the performance of those functions and have the same responsibilities for the acts or omissions of the *person* retained that an *ACD* has under this rule *CIS* 7.6.1 and responsibilities as for an *ACD* under this rule.~~

7.6.2 G (1) *SYSC* 3.2...

(2) *SUP* 15.8.4R requires an *ACD* of a *UCITS* scheme to inform the *FSA* where any of its duties is delegated to another *person*.

...

7.10.4 R (1) The *manager* may delegate any function to any *person*, including the *trustee*, provided that:

- (a) a mandate in relation to *managing investments* of the *scheme property* is not given to:
 - (i) the *trustee*;
 - (ii) any other *person* whose interests may conflict with those of the *manager* or the *holders*; or
 - (iii) any other *person* who is not authorised or registered for *managing of investments* and is not subject to prudential supervision (unless there is agreement in place between the *FSA* and the *overseas regulator* of the delegate ensuring adequate co-operation);
- (b) the *manager* ensures that at all times it may monitor effectively the relevant activities of any *person* so retained; and
- (c) the mandate permits the *manager* to:
 - (i) give further instructions to the *person* so retained;
 - (ii) withdraw the mandate with immediate effect when this is in the interests of the *holders*;
- (d) the mandate does not prevent effective supervision of the *manager* and must not prevent the *manager* from acting, or the *scheme* from being managed, in the best interest of the *holders*.

...

- (5) ~~If:~~ Where delegation occurs under (1) the responsibility which the *manager* had in respect of such delegated services prior to that delegation will remain unaffected.
 - (a) ~~the *manager* delegates any function concerning the management of the *scheme property*; or~~

~~(b) the *manager* delegates any function to the *trustee* or to an associate of its own or of the *trustee*; or~~

~~(c) the *trustee* delegates any function to the *manager* or to an associate of its own or of the *manager*;~~

~~the *manager* or as the case may be the *trustee*, remains responsible, for the acts or omissions of the delegate as if they were the acts or omissions of the *manager*, or as the case may be of the *trustee*.~~

(6) In the case of any delegation by the *manager* or the *trustee* to which (5) does not apply, the *manager*, or as the case may be the *trustee* will not be held responsible by virtue of the *rules* in CIS for any act or omission of the delegate if the *manager* (or *trustee*) can show: Where delegation occurs under (4):

(a) that it was reasonable for a delegate to be employed for the function in question; and if the *trustee* delegates any function to the *manager* or to an associate of its own or of the *manager*, the *trustee's* liability in respect of the function remains unaffected; and

(b) that the delegate was and remained competent to undertake the function in question; and in any other case the *trustee* will not be held responsible by virtue of the *rules* in CIS for any act or omission of the delegate if it can show:

(i) that it was reasonable for a delegate to be employed for the function in question;

(ii) that the delegate was and remained competent to undertake the function in question; and

~~(c)~~ (iii) that the *manager* (or *trustee*) it had taken

reasonable care to ensure that the function in question was undertaken by the agent in a competent manner.

- 7.10.5 G (1) *SYSC 3.2 ...*
- (2) *SUP 15.8.4R requires an ACD of a UCITS scheme to inform the FSA where one of its duties is delegated to another person.*

...

Reports to be offered to purchasers of units made available

- 10.5.3 R (1) ~~Neither the ICVC nor the authorised fund manager shall effect any issue or sale of units to any person in the United Kingdom until it has offered that person free of charge a A copy in English of the most recent annual report of the authorised fund and (if more recent) the most recent half-yearly report on the authorised fund must be sent to any person, free of charge, on request before the conclusion of that sale.~~
- (2) ~~Neither the ICVC nor the authorised fund manager shall effect any issue or sale of units to any person in the territory of a EEA State other than the United Kingdom until it has offered that person free of charge a copy, in an official language of that EEA State, of the most recent annual report on the authorised fund and (if more recent) the most recent half-yearly report on the authorised fund before the conclusion of that sale.~~

...

Restrictions of business of Managers of UCITS schemes

16.5

- 16.5.1 R A *firm* which is the ~~*manager*~~ of an *AUT* which is *authorised fund manager of* a *UCITS* scheme must not engage in any activities other than:
- (1) acting as ~~*manager*~~ of:
 - (a) a ~~*unit trust*~~; *manager of an authorised fund*; or
 - (b) ~~*-ended investment company*~~ or any other body corporate whose business consists of investing its funds with the aim of spreading investment risk and giving its members the benefit of the results of — the management of its funds by or on behalf of that body; or
 - (eb) *an operator of any other collective investment scheme for which the firm is subject to prudential supervision and under which the contribution of the participants and the profits or income out of which payments are to be made to them are pooled*; or
 - ...
 - (4) *managing investments*;
 - (5) *advising on investments* where the *firm* has a *permission* in respect of (4);
 - (6) *safekeeping and administration of collective investment scheme units* where the *firm* has a *permission* in respect of (4).

...

After, CIS 17.1.2G, insert the following new section:

Guidance on passportable activities

17.1.3 G CIS 16.1.8G provides *guidance* on notifications of *schemes* constituted in other *EEA States*. The *manager* of such a *scheme* will be a *UCITS qualifier*, and so be an *authorised person* under Schedule 5 to the *Act*, if it carries out *scheme management activity* and activity in connection with the operation of the *scheme* only. If the manager of such a *scheme* wishes to undertake the passportable activities of *managing investment* (other than of a *collective investment schemes*, *investment advice* or *safekeeping and administration of investments*, as provided by article 5(3) of the *UCITS Directive*, as well as *scheme management*, it will need to do so in accordance with an authorisation conferred by Schedule 3 to the *Act* and should refer to the procedures in *AUTH 5* and *SUP 14* accordingly.

...

17.2.1 G ...

(4) The following information and documentation must be provided:

...

(1) a copy of the *prospectus* and simplified prospectus of the *scheme*; and

...

Annex J

Amendments to the Glossary

Insert the following new definitions in the appropriate alphabetical position:

EEA UCITS management company (as defined in article 1a (2) of the *UCITS Directive*) any *incoming EEA firm*, the regular business of which is the *management* of *UCITS* in the form of unit trusts or common funds or of investment companies (collective portfolio management of *UCITS*) or of both; this includes the functions mentioned in Annex II.

relevant scheme a *collective investment scheme* managed by an *EEA UCITS management company*.

UCITS firm a *firm* which:

- (a) is the *operator* of a *UCITS scheme* including where in addition the *firm* is also the *operator* of a *collective investment scheme* which is not a *UCITS scheme*; and
- (b) does not have a Part IV *permission* to carry on any *regulated activities* other than those which are in connection with, or for the purposes of, such schemes.

UCITS investment firm a *firm* which:

- (a) is the *operator* of a *UCITS scheme* including where in addition the *firm* is also the *operator* of a *collective investment scheme* which is not a *UCITS scheme*; and
- (b) has a Part IV *permission* to *manage investments* where the *investments managed* include one or more of the instruments listed in Section B of the Annex to the *ISD*.

UCITS management company a *firm* which is either:

- (a) a *UCITS firm*; or
- (b) a *UCITS investment firm*.

Amend the following definitions as shown (underlining indicates new text and striking through indicates deleted text).

authorised corporate director

the *director* of an *ICVC* who is the authorised corporate *director* of the *ICVC* in accordance with *CIS 7.2.1R (The directors)* including, if relevant, an *EEA UCITS management company*.

branch

...

- (d) [reserved for amendments implementing the Insurance Mediation Directive]
- (e) [reserved for amendments implementing the Insurance Mediation Directive]
- (f) (in relation to an *EEA UCITS management company*):
 - (i) a place of business which is a part of an *EEA UCITS management company*, which has no separate legal personality and which provides the services for which the *EEA UCITS management company* has been authorised;
 - (ii) for the purposes of the *UCITS Directive*, all the places of business set up in the same *EEA State* by an *EEA UCITS management company* with headquarters in another *EEA State* are to be regarded as a single *branch*.

EEA firm

(in accordance with paragraph 5 of Schedule 3 to the *Act (EEA Passport Rights)*) any of the following, if it does not have its head office in the *United Kingdom*:

...

- (e) [reserved for amendments implementing the Insurance Mediation Directive]
- (f) (from 13 February 2004) a management company (as defined in article 1a of the *UCITS Directive*) which has been authorised under article 5 of that directive by its *Home State regulator*.

Home State

...

- (3) (in relation to a *UCITS management company*) the *EEA State* in which the *management company's* registered office is situated;

~~(3)~~ (4) ...

(4) ~~(5)~~ ...

~~(5)~~ (6) ...

investment management company a firm whose permitted activities include designated investment business, which is not an authorised professional firm, bank, ELMI, building society, credit union, energy market participant, friendly society, ICVC, insurer, media firm, oil market participant, service company, incoming EEA firm (without a top-up permission), incoming Treaty firm (without a top-up permission), UCITS management company or UCITS qualifier (without a top-up permission), whose permission does not include a requirement that it comply with IPRU(INV) 3 or 10 (Securities and futures firms) or 13 (Personal investment firms) and which is within (a), (b) or (c):

manager

- ...
- (1) (in relation to an *AUT*) the firm which is the manager of the *AUT* in accordance with the *trust deed*.
 - (1A) (in relation to an 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 person appointed to manage the scheme.
 - (2) (as defined in section 423(1) and (2) of the *Act* (Manager)) (except in relation to a *unit trust scheme* or an undertaking for collective investment in transferable securities within the meaning of the *UCITS Directive* (other than a *unit trust scheme*) or an undertaking or a registered friendly society):
 - (a) an employee who:
 - (i) under the immediate authority of his employer, is responsible, either alone or jointly with one or more other individuals, for the conduct of his employer's business; or
 - (ii) under the immediate authority of his employer or of a person who is a manager in accordance with (i) exercises managerial functions or is responsible for maintaining accounts or other records of his employer;
 - (b) if the employer is not an individual, references in (a) to the authority of the employer are references to the authority:
 - (i) in the case of a *body corporate*, of the directors;
 - (ii) in the case of a *partnership*, of the partners; and
 - (iii) in the case of an unincorporated association, of its officers or the members of its governing body.
 - (3) (as defined in section 423(3) of the *Act* (Manager)) (in relation to a *body corporate* other than one covered at (1A) above):

- (a) a *person* (other than an employee of the body) who is appointed by the body to manage any part of its business, including an employee of the *body corporate* (other than the *chief executive*) who under the immediate authority of a director or *chief executive* of the *body corporate* exercises managerial functions or is responsible for maintaining accounts or other records of the *body corporate*;
- (b) for the purposes of (a) and in relation to a *body corporate* whose principal place of business is within the *United Kingdom*, the *chief executive* includes only a *person* who is an employee of the *body corporate* in accordance with section 417(1) of the *Act* (Definitions).

operator

...
(1) (except in *ENF*):

- (a) in relation to an *AUT*) the *manager*;
- (b) (in relation to an *ICVC*) that *company* or, if applicable, the *authorised corporate director*;
- (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*;
- (c) (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*;
- (d) (in relation to any other *collective investment scheme* that is an *OEIC*) 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) (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*;
- (f) (in relation to an *investment trust savings scheme*) any *person* appointed, by those responsible for managing the property of the *investment trust*, to manage the *investment trust savings scheme*.

(2) (in *ENF*) (in accordance with section 237(2) of the *Act* (Other definitions)):

- (a) ~~(in relation to a *unit trust scheme* with a separate *trustee* the *manager*; and~~

(b) ~~in relation to an open-ended investment company~~ that company.

(a) (in relation to a unit trust scheme with a separate trustee) the manager;

(b) (in relation to an 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;

(c) (in relation to any other OEIC) the company.

*participant
firm*

a firm other than:

(a) in accordance with section 210 of the *Act* (The Compensation scheme) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons) an *incoming EEA firm* which is:

(i) a *credit institution*;

(ii) an *ISD investment firm*; or

(iii) a UCITS management company; or

(iv) both (i) and (ii);

in relation to its *passport activities*, unless it has *top-up cover* (and in the case of a *UCITS management company*, only in relation to the services referred to in Article 5(3) of the *UCITS Directive*, that is managing investments (other than of a collective investment scheme), advising on investments or safeguarding and administering investments);

*personal
investment
firm*

a firm whose *permitted activities* include *designated investment business*, which is not an *authorised professional firm*, bank, *ELMI*, *building society*, *credit union*, *energy market participant*, *friendly society*, *ICVC*, *insurer*, *media firm*, *oil market participant*, *service company*, *incoming EEA firm* (without a *top-up permission*), *incoming Treaty firm* (without a *top-up permission*), UCITS management company or *UCITS qualifier* (without a *top-up permission*), whose *permission* does not include a *requirement* that it comply with *IPRU(INV) 3* (Securities and futures firms), 5 (Investment management firms) or 10 (Securities and futures firms), and which is within (a), (b) or (c):

...

securities and futures firm a firm whose permitted activities include designated investment business, which is not an authorised professional firm, bank, ELMI, building society, credit union, friendly society, ICVC, insurer, media firm, service company, incoming EEA firm (without a top-up permission), incoming Treaty firm (without a top-up permission), UCITS management company or UCITS qualifier (without a top-up permission), whose permission does not include a requirement that it comply with IPRU(INV) 5 (Investment management firms) or 13 (Personal investment firms), and which is within (a), (b), (c), (d), (e) or (f):

...

service conditions (in accordance with paragraph 14 of Schedule 3 to the Act (EEA Passport Rights)) the conditions that:

- (a) the firm has given its Home State regulator notice of its intention to provide services in the United Kingdom;
- (b) the firm falls within paragraph (a), ~~(d)~~, (e) or (f) in the definition of “EEA firm”, the FSA has received notice from the firm’s Home State regulator containing such information as may be prescribed; and
- (c) if the firm falls within paragraph (d) of that definition, its Home State regulator has informed it that the regulator’s notice has been sent to the FSA.

Single Market Directives (as defined in paragraph 1 of Schedule 3 to the Act (EEA Passport Rights));

- (a) the Banking Consolidation Directive;²
- (b) [deleted]
- (c) the Insurance Directives ~~and~~;
- (d) the Investment Services Directive;
- (e) [reserved for amendments implementing the Insurance Mediation Directive]
- (f) (from 13 February 2004) the UCITS Directive.

top-up-cover cover provided by the compensation scheme for claims against an incoming EEA firm (which is a credit institution, an ISD investment firm or a UCITS management company)...

UCITS Directive the Council Directive of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) No 85/611/EEC) as amended by Directives 88/220/EEC, 95/26/EC, 2000/64/EC, 2001/107/EC, 2001/108/EC;

UCITS qualifier a firm (other than an EEA UCITS management company) which:

