



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVII

#### COLLECTIVE INVESTMENT SCHEMES

#### [<sup>F1</sup>CHAPTER 3A

#### AUTHORISED CONTRACTUAL SCHEMES

#### *[<sup>F1</sup>Applications for authorisation*

#### Textual Amendments

- F1** Pt. XVII Ch. 3A inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, **3(12)** (with reg. 24)

#### **261C. Applications for authorisation of contractual schemes**

[<sup>F2</sup>(1) The operator and depositary, or proposed operator and depositary, of a contractual scheme may apply to the FCA for—

- (a) an order declaring the scheme to be an authorised contractual scheme;
- (b) an order declaring the scheme to be an authorised money market fund.]

(2) [<sup>F3</sup>An application under subsection (1)(a)]—

- (a) must be made in such manner as the FCA may direct;
- (b) must state the name and the registered office, or if it does not have a registered office, the head office, of the operator or proposed operator and of the depositary or proposed depositary; and
- (c) in the case of a partnership scheme, must be accompanied by a copy of the certificate of registration as a limited partnership under the Limited Partnerships Act 1907.

*Status: Point in time view as at 26/10/2018.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Applications for authorisation is up to date with all changes known to be in force on or before 08 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [ An application under subsection (1)(b) must—
- <sup>F4</sup>(2A) (a) be made in such a manner as the FCA may direct, and  
 (b) contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.]
- (3) At any time after receiving an application and before determining it, the FCA may require the applicants to provide it with such further information as it reasonably considers necessary to enable it to determine the application.
- (4) Different directions may be given, and different requirements imposed, in relation to different applications.
- (5) The FCA may require applicants to present information which they are required to give under this section in such form, or to verify it in such a way, as the FCA may direct.

**Textual Amendments**

**F2** S. 261C(1) substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(10)(a)**

**F3** Words in s. 261C(2) substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(10)(b)**

**F4** S. 261C(2A) inserted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(10)(c)**

**261D. Authorisation orders [<sup>F5</sup>: authorised contractual schemes]**

- (1) If, on an application under section [<sup>F6</sup>261C(1)(a)] in respect of a contractual scheme, the FCA—
- (a) is satisfied that the scheme complies with the requirements set out in this section and section 261E,
  - (b) is satisfied that the scheme complies with the requirements of contractual scheme rules, and
  - (c) has been provided with a copy of the contractual scheme deed and a certificate signed by a solicitor to the effect that it complies with such of the requirements of this section or those rules as relate to its contents,
- the FCA may make an order declaring the scheme to be an authorised contractual scheme.
- (2) If the FCA makes an order under subsection (1), it must give written notice of the order to the applicants.
- <sup>F7</sup>(3) .....
- (4) The operator and the depositary must be persons who are independent of each other.
- (5) The operator and the depositary must each be a body corporate incorporated in the United Kingdom or another EEA State, and the affairs of each must be administered in the country in which it is incorporated.
- (6) The depositary must have a place of business in the United Kingdom, and the operator must have a place of business in the United Kingdom or in another EEA State.

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- (7) If the operator is incorporated in another EEA State, the scheme must not be one which satisfies the requirements prescribed for the purposes of section 264.
- (8) The operator and the depositary must each be an authorised person, and the operator must have [<sup>F8</sup>such permission as may be necessary to act as operator] and the depositary must have permission to act as depositary.
- (9) The operator must be a fit and proper person to manage the scheme to which the application relates.
- (10) The name of the scheme must not be undesirable or misleading.
- (11) The purposes of the scheme must be reasonably capable of being successfully carried into effect.

#### Textual Amendments

- F5** Words in s. 261D heading inserted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(11)(a)**
- F6** Word in s. 261D(1) substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(11)(b)**
- F7** S. 261D(3) omitted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by virtue of [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(11)(c)**
- F8** Words in s. 261D(8) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 17**

#### 261E. [<sup>F9</sup>Authorised contractual schemes]: holding of units

- (1) The participants in a contractual scheme must be entitled to have their units redeemed in accordance with the scheme at a price—
  - (a) related to the net value of the property to which the units relate; and
  - (b) determined in accordance with the scheme.
- (2) The scheme must not allow units in the scheme to be issued to anyone other than—
  - (a) a professional investor;
  - (b) a large investor; or
  - (c) a person who already holds units in the scheme.
- (3) The scheme must require the operator, if it becomes aware that units have become vested in a person to whom as a result of subsection (2) the units could not have been issued, to redeem the units as soon as practicable.
- (4) In subsection (2)—

“professional investor” means a person who falls within one of the categories (1) to (4) of Section I of Annex II to the markets in financial instruments directive (professional clients for the purpose of that directive); and

“large investor” means a person who, in exchange for units in the scheme, makes a payment of, or contributes property with a value of, not less than £1,000,000.

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#### Textual Amendments

- F9** Words in s. 261E heading substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(12)**

### **Authorisation orders: authorised money market funds**

**F10** **261EA**

- (1) If, on an application under section 261C(1)(b) in respect of a contractual scheme, conditions A and B are met the FCA may make an order declaring the scheme to be an authorised money market fund.
- (2) Condition A is that the FCA is satisfied that the scheme will be able to comply with the requirements imposed on a money market fund under the MMF Regulation.
- (3) Condition B is that—
  - (a) the scheme is an authorised contractual scheme, or
  - (b) the scheme—
    - (i) is the subject of an application under section 261C(1)(a), and
    - (ii) the conditions in section 261D(1)(a) to (c) are met in relation to that application.
- (4) If the FCA makes an order under subsection (1), it must give written notice of the order to the applicant.
- (5) In this Chapter “authorisation order” means—
  - (a) an order under section 261D(1), or
  - (b) an order under subsection (1) of this section.]

#### Textual Amendments

- F10** S. 261EA inserted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(13)**

### **261F. Determination of applications**

- (1) Subject to subsection (2), an application under section **[<sup>F11</sup>261C(1)(a)]** must be determined by the FCA before the end of the period of six months beginning with the date on which it receives the completed application.
- (2) An application under section **[<sup>F12</sup>261C(1)(a)]** in respect of a contractual scheme which is a UCITS, or an application under section 261C(1)(b),] must be determined by the FCA before the end of two months beginning with the date on which it receives the application.
- (3) The FCA may determine an incomplete application if it considers it appropriate to do so; and it must in any event determine such an application within twelve months beginning with the date on which it first receives the application.
- (4) The applicants may withdraw the application, by giving the FCA written notice, at any time before the FCA determines it.]

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#### Textual Amendments

- F11** Word in s. 261F(1) substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(14)(a)**
- F12** Words in s. 261F(2) substituted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(14)(b)**

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