
STATUTORY INSTRUMENTS

2001 No. 1228

The Open-Ended Investment Companies Regulations 2001

PART II

FORMATION, SUPERVISION AND CONTROL

Alterations

The Authority's approval for certain changes in respect of a company

- 21.—(1) An open-ended investment company must give written notice to the Authority of —
- (a) any proposed alteration to the company's instrument of incorporation [^{F1}other than one to which regulation 22A applies];
 - (b) any proposed alteration to the company's prospectus which, if made, would be significant;
 - (c) any proposed reconstruction or amalgamation involving the company [^{F2}other than a proposed merger to which Part 4 of the Undertakings for Collective Investment in Transferable Securities Regulations 2010 applies];
 - (d) any proposal to wind up the affairs of the company [^{F3}or a sub-fund of that company] otherwise than by the court;
 - (e) any proposal to replace a director of the company, to appoint any additional director or to decrease the number of directors in post; and
 - (f) any proposal to replace the depositary of the company.

(2) Any notice given under paragraph (1)(a) must be accompanied by a certificate signed by a solicitor to the effect that the change in question will not affect the compliance of the instrument of incorporation with Schedule 2 to these Regulations and with such of the requirements of [^{F4}FCA rules] as relate to the contents of that instrument.

- (3) Effect must not be given to any proposal falling within paragraph (1) unless—
- (a) the Authority, by written notice, has given its approval to the proposal; or
 - (b) one month, beginning with the date on which notice of the proposal was given, has expired without the company or the depositary having received from the Authority a warning notice under regulation 22 in respect of the proposal.

(4) No change falling within paragraph (1)(e) may be made if any of the requirements set out in regulation 15(4) to (7) and (8)(f) would not be satisfied if the change were made and no change falling within paragraph (1)(f) may be made if any of the requirements in regulation 15(8) would not be satisfied if the change were made.

Textual Amendments

- F1** Words in reg. 21(1)(a) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), regs. 1, **3(3)(a)**

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the The Open-Ended Investment Companies Regulations 2001, Cross Heading: Alterations. (See end of Document for details)

- F2** Words in reg. 21(1)(c) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), regs. 1, **3(3)(b)**
- F3** Words in reg. 21(1)(d) inserted (21.12.2011) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2011 \(S.I. 2011/3049\)](#), regs. 1, **3(4)** (with regs. 4-10)
- F4** Words in Regulations substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 41(2)**

Procedure when refusing approval of proposed changes

22.—(1) If the Authority proposes to refuse approval of a proposal to replace the depository, or any director, of an open-ended investment company, it must give a warning notice to the company.

(2) If the Authority proposes to refuse approval of any other proposal falling within regulation 21, it must give separate warning notices to the company and its depository.

(3) To be valid the warning notice must be received by that person before the end of one month beginning with the date on which notice of the proposal was given.

(4) If, having given a warning notice to a person, the Authority decides to refuse approval—

- (a) it must give him a decision notice; and
- (b) he may refer the matter to the ^{F5}Upper Tribunal].

(5) If, having given a warning notice to a person, the Authority decides to approve the proposal, it must give him a ^{F6}written] notice.

Textual Amendments

- F5** Words in reg. 22(4)(b) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 20**
- F6** Word in reg. 22(5) substituted (6.4.2005) by [The Open-Ended Investment Companies \(Amendment\) Regulations 2005 \(S.I. 2005/923\)](#), regs. 1, **2(2)**

^{F7}The Authority's approval for conversion of a feeder UCITS

22A.—(1) An open-ended investment company must give written notice to the Authority of any proposal to amend its instrument of incorporation to enable it to convert into a UCITS which is not a feeder UCITS.

(2) Any notice given in respect of such a proposal must be accompanied by—

- (a) a certificate signed by a solicitor to the effect that the amendment will not affect the compliance of the instrument of incorporation with Schedule 2 to these Regulations and with such of the requirements of ^{F4}FCA rules] as relate to the contents of that instrument; and
- (b) the specified information.

(3) Paragraph (4) applies where—

- (a) the notice given under subsection (1) relates to a proposal to amend the instrument of incorporation of an open-ended investment company which is a feeder UCITS to enable it to convert into a UCITS which is not a feeder UCITS following the winding-up of its master UCITS; and
- (b) the proceeds of the winding-up are to be paid to the company before the date on which it proposes to start investing in accordance with the new investment objectives and policy provided for in its amended instrument of incorporation.

(4) Where this paragraph applies, the Authority may only approve the proposal subject to the conditions set out in section 283A(5) and (6) of the Act.

(5) The Authority must, within fifteen working days from the date on which it received the notice under paragraph (1), give—

- (a) written notice that it approves the proposed amendments to the instrument of incorporation, or
- (b) a warning notice under regulation 22 that it proposes to refuse approval of the proposed amendments.

(6) Effect is not to be given to any proposal of which notice has been given under subsection (1) unless the Authority, by written notice, has given its approval to the proposal.

(7) If the Authority proposes to refuse approval of the proposal it must give separate warning notices to the company and to its depository.

(8) If, having given a warning notice to a person, the Authority decides to refuse approval—

- (a) it must give that person a decision notice; and
- (b) that person may refer the matter to the Tribunal.

(9) In this regulation, “specified” means specified in—

- (a) rules made by the Authority to implement the UCITS directive, or
- (b) any directly applicable Community regulation or decision made under the UCITS directive.]

Textual Amendments

- F4** Words in Regulations substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 41(2)**
- F7** Reg. 22A inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), regs. 1, **3(4)**

Status:

Point in time view as at 01/04/2013.

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