
STATUTORY INSTRUMENTS

2019 No. 325

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

PART 6

Temporary recognition for purposes of Part 17 of the 2000 Act

Interpretation of this Part

- 61.**—(1) This regulation has effect for the interpretation of this Part.
- (2) “Stand-alone scheme” means a collective investment scheme—
- (a) which does not have two or more sub-funds, and
 - (b) whose fund rules or instruments of incorporation do not enable it to have two or more sub-funds.
- (3) “Sub-fund” means a sub-fund of a collective investment scheme (its “umbrella scheme”); and for this purpose “sub-fund”—
- (a) in relation to a UCITS, has the meaning given by section 237(4) of the 2000 Act, and
 - (b) in relation to a collective investment scheme that is not a UCITS, has a corresponding meaning.
- (4) “Operator”, in relation to a sub-fund, means the operator of its umbrella scheme.
- (5) References to the authorisation of a sub-fund by its home state regulator are—
- (a) in the case of a sub-fund which was included in its umbrella scheme when the scheme was first established, references to the authorisation of the scheme by its home state regulator in accordance with Article 5(1) of the UCITS directive, and
 - (b) in the case of a sub-fund which was not so included, references to the approval by the home state regulator, in accordance with Article 5(6) of the UCITS directive, of the amendment of the fund rules, or instruments of incorporation, of the umbrella scheme that related to the establishment of the sub-fund.
- (6) “Home state regulator”, in relation to a stand-alone scheme or sub-fund, means the competent authority within the meaning of the UCITS directive in relation to the scheme or sub-fund.
- (7) Other expressions that are defined for the purposes of Part 17 of the 2000 Act have the same meaning in this Part as in that Part.

Commencement Information

II Reg. 61 in force at 20.2.2019, see reg. 1(3)

Status: Point in time view as at 30/04/2021.

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

Temporary recognition for EEA UCITS or sub-fund of EEA UCITS

62.—(1) If the appropriate conditions in regulation 63 are satisfied, a stand-alone scheme or sub-fund is to be a recognised scheme for the purposes of Part 17 of the 2000 Act during the relevant period, despite the amendment made by regulation 7(3)(c).

(2) The relevant period begins—

- (a) where the appropriate conditions are those in regulation 63(1) or (2), with [^{F1}IP completion day], or
- (b) where the appropriate conditions are those in regulation 63(3), at the end of the tenth working day following the day on which the FCA receive the notification for the purposes of regulation 63(3)(c).

(3) The relevant period ends with the earliest of the following—

- (a) the day on which the operator of the stand-alone scheme or sub-fund is given—
 - (i) written notice under section 275(3) ^{M1} of the 2000 Act of the making of a recognition order under section 272 ^{M2} of that Act in respect of the stand-alone scheme or, as the case may be, in respect of the recognition of sub-fund's umbrella scheme in relation to the sub-fund, or
 - (ii) a decision notice under section 276(2)(a) ^{M3} of the 2000 Act relating to the refusal of an application made under section 272 of that Act in respect of the stand-alone scheme or, as the case may be, in respect of the recognition of the sub-fund's umbrella scheme in relation to the sub-fund,
- (b) if the operator of the stand-alone scheme or sub-fund gives written notice to the FCA that the operator—
 - (i) desires the stand-alone scheme or sub-fund no longer to be a recognised scheme, or
 - (ii) withdraws an application under section 272 of the 2000 Act in respect of the stand-alone scheme or, as the case may be, in respect of the recognition of the sub-fund's umbrella scheme in relation to the sub-fund,

the day on which the notice is given;

- (c) if the operator of the stand-alone scheme or sub-fund fails to make—
 - (i) in the case of a stand-alone scheme, an application under section 272 of the 2000 Act in respect of the stand-alone scheme, or
 - (ii) in the case of a sub-fund, an application under that section in respect of the recognition of the sub-fund's umbrella scheme in relation to the sub-fund,

during the period specified by the FCA in a direction under paragraph 68(2), the end of that period;

- (d) the end of the period of 3 years beginning with the day on which [^{F1}IP completion day] occurs.

(4) References in an enactment to a recognised scheme as defined in section 237(3) of the 2000 Act (however expressed) are to be read as including a reference to a stand-alone scheme or sub-fund recognised by virtue of this regulation.

Textual Amendments

- F1** Words in reg. 62 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **12(a)**

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

Modifications etc. (not altering text)

- C1** Reg. 62 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **37** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I2** Reg. 62 in force at 20.2.2019, see reg. 1(3)

Marginal Citations

- M1** Section 275 was amended by Schedule 18 to the Financial Services Act 2012.
M2 Section 272 was amended by Schedule 18 to the Financial Services Act 2012 and [S.I. 2013/1773](#).
M3 Section 276 was amended by Schedule 18 to the Financial Services Act 2012.

The appropriate conditions

63.—(1) In relation to a stand-alone scheme, the appropriate conditions referred to in paragraph 62 are—

- (a) that the operator of the stand-alone scheme has before [F²IP completion day] notified the FCA in accordance with regulation 64 that it wishes the scheme to be treated in accordance with regulation 62, and
- (b) that immediately before [F²IP completion day] the stand-alone scheme is an EEA UCITS which is a recognised scheme by virtue of section 264^{M4} of the 2000 Act.

(2) In relation to a sub-fund which is authorised by its home state regulator before [F²IP completion day], the appropriate conditions referred to in paragraph 62 are—

- (a) that the operator of the sub-fund has before [F²IP completion day] notified the FCA in accordance with regulation 64 that it wishes the sub-fund to be treated in accordance with regulation 62, and
- (b) that immediately before [F²IP completion day] the sub-fund is the sub-fund of a EEA UCITS and is a recognised scheme by virtue of section 264 of the 2000 Act.

(3) In relation to a sub-fund not falling within paragraph (2), the appropriate conditions referred to in paragraph 62 are—

- (a) that the sub-fund (“the new sub-fund”) becomes authorised by its home state regulator on or after [F²IP completion day],
- (b) that at the time when the new sub-fund becomes authorised by its home state regulator at least one other sub-fund of the new sub-fund's umbrella scheme is a recognised scheme by virtue of regulation 62,
- (c) that, after the new sub-fund becomes authorised by its home state regulator and while at least one other sub-fund of the umbrella scheme continues to be so authorised, the operator of the new sub-fund has notified the FCA in accordance with regulation 64 that it wishes the new sub-fund also to be treated in accordance with regulation 62, and
- (d) that the notification is given before the start of the period specified by the FCA under regulation 68 in relation to the new sub-fund's umbrella scheme.

Textual Amendments

- F2** Words in reg. 63 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **12(b)**

Status: Point in time view as at 30/04/2021.

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

Commencement Information

I3 Reg. 63 in force at 20.2.2019, see reg. 1(3)

Marginal Citations

M4 Section 264 was amended by [S.I. 2011/1613](#), [S.I. 2012/2015](#) and Schedule 18 to the Financial Services Act 2012.

Notification to the FCA

64.—(1) A notification for the purposes of regulation 63(1)(a), (2)(a) or (3)(c)—

- (a) must be made in such manner, and during such period, as the FCA may direct, and
- (b) must contain, or be accompanied by, such information as the FCA may direct.

(2) The requirements of a direction given by the FCA under paragraph (1) on or after the day on which this regulation comes into force may be satisfied by a notification given to the FCA before that day.

Commencement Information

I4 Reg. 64 in force at 20.2.2019, see reg. 1(3)

Duty to provide further information

65.—(1) The operator of a stand-alone scheme or sub-fund that is a recognised scheme by virtue of regulation 62 must notify the FCA if—

- (a) there is a change affecting the information contained in or accompanying the notification under regulation 64,
- (b) in the case of a stand-alone scheme, the authorisation of the stand-alone scheme by its home state regulator is varied or cancelled, or
- (c) in the case of a sub-fund, the authorisation of the sub-fund or its umbrella scheme by its home state regulator is varied or cancelled.

(2) Where—

- (a) in accordance with the UCITS directive the operator of a stand-alone scheme or sub-fund to which regulation 62 applies is required, by the law of the EEA State that is for the purposes of that directive the home state of the stand-alone scheme or sub-fund, to provide information to its home state regulator, and
- (b) the information is information of a kind which, immediately before [^{F3}IP completion day], the home state regulator would have been required by the UCITS directive to provide to the FCA,

the operator must notify the FCA of that information.

(3) A notification under this regulation must—

- (a) be made in such manner, and during such period, as the FCA may direct, and
- (b) contain, or be accompanied by, such other information as the FCA may direct.

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Textual Amendments

- F3** Words in reg. 65 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **12(c)**

Commencement Information

- I5** Reg. 65 in force at 20.2.2019, see reg. 1(3)

Other duties of operator

66.—(1) The operator of a stand-alone scheme or sub-fund that is a recognised scheme by virtue of regulation 62 must comply with duties corresponding to those that, if the United Kingdom were a UCITS host Member State for the purposes of the UCITS directive, would be imposed on the operator in accordance with the following provisions of that directive—

- (a) Article 43(4);
 - (b) Article 64(2);
 - (c) Article 84(3);
 - (d) the final sentence of Article 93(7);
 - (e) Article 93(8);
 - (f) Article 94.
- (2) For the purposes of this regulation, those provisions are to be read as if—
- (a) references to the UCITS host member State, or to a member State where the UCITS markets its units, were references to the United Kingdom;
 - (b) references to the competent authority of the UCITS host member State or of the member State where the UCITS markets its units were references to the FCA.

Commencement Information

- I6** Reg. 66 in force at 20.2.2019, see reg. 1(3)

Power to extend the period specified in regulation 62(3)(d)

67.—(1) The Treasury may by regulations made by statutory instrument amend regulation 62(3)(d) so as to extend the period for the time being specified in that provision, if the Treasury considers it necessary to do so.

(2) The Treasury may only make regulations under paragraph (1) if, no later than 6 months before the end of the period to be extended, the FCA has submitted to the Treasury an assessment as to the effect of extending, and not extending, the period for the time being specified in regulation 62(3)(d) on—

- (a) stand-alone schemes and sub-funds to which regulation 62 applies,
- (b) the financial markets, and
- (c) the ability of the FCA to discharge its functions in a way that advances its objectives under Part 1A^{M5} of the 2000 Act.

(3) Regulations under paragraph (1) may not extend the period for the time being specified in regulation 62(3)(d) by more than 12 months on any one occasion.

Status: Point in time view as at 30/04/2021.

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

(4) A statutory instrument which contains regulations under paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I7 Reg. 67 in force at 20.2.2019, see reg. 1(3)

Marginal Citations

M5 Part 1A was inserted by section 6(1) of the Financial Services Act 2012.

Applications under section 272 of the 2000 Act

68.—(1) In relation to—

- (a) an application under section 272 of the 2000 Act relating to a stand-alone scheme that is a recognised scheme by virtue of regulation 62, or
- (b) an application under that section relating to the umbrella scheme of one or more sub-funds that are recognised schemes by virtue of that regulation, whether or not relating to those sub-funds,

sections 274^{M6} and 275 of the 2000 Act are subject to paragraphs (2) and (3).

(2) The FCA may direct that the application must be made during a period specified in the direction.

(3) Subsections (1) and (2) of section 275 of the 2000 Act do not apply in relation to the application, but the application must be determined by the FCA before the end of the period for the time being specified in regulation 62(3)(d).

Commencement Information

I8 Reg. 68 in force at 20.2.2019, see reg. 1(3)

Marginal Citations

M6 Section 274 was amended by Schedule 18 to the Financial Services Act 2012.

Directions given by FCA

69. Despite the repeal by regulation 25 of section 267^{M7} of the 2000 Act, a direction given by the FCA under that section which has effect immediately before [F⁴IP completion day] continues to have effect on and after [F⁴IP completion day] if, by virtue of regulation 62, the stand-alone scheme or sub-fund to which the direction relates continues to be a recognised scheme on and after [F⁴IP completion day].

Textual Amendments

F4 Words in reg. 69 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **12(d)**

Commencement Information

I9 Reg. 69 in force at 20.2.2019, see reg. 1(3)

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

Marginal Citations

M7 Section 267 was amended by Schedule 18 to the Financial Services Act 2012.

Application of repealed or amended provisions

70.—(1) Despite their repeal by regulations 25 and 29, sections 266 to 269^{M8} and 395(13)(e) of the 2000 Act apply during the relevant period in relation to a stand-alone scheme or sub-fund that is a recognised scheme by virtue of regulation 62 as they applied immediately before [F⁵IP completion day] in relation to a scheme that was recognised under section 264 of that Act, but this is subject to paragraph (2).

(2) In their application by virtue of this regulation, sections 266 to 269 are to be read as if—

- (a) in section 266(1A)^{M9}, the reference to an EEA firm falling within paragraph 5(f) of Schedule 3^{M10} to the 2000 Act who qualifies for authorisation under that Schedule were a reference to a person who immediately before [F⁵IP completion day] was such an EEA firm and who is treated by regulation 8 or 11 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018^{M11} as having permission under Part 4A to carry on the activities in relation to which the person was previously authorised under Schedule 3,
- (b) in section 267, subsection (7) were omitted,
- (c) in section 268, subsections (3)(b), (7)(b) and (9)(b) were omitted, and
- (d) in section 269, subsection (6) were omitted.

(3) A stand-alone scheme or sub-fund that is a recognised scheme by virtue of regulation 62 is to be taken to be a relevant collective investment scheme for the purposes of—

- (a) article 2(1) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975,
- (b) article 1(2) of the Rehabilitation of Offenders (Exceptions) (Order) (Northern Ireland) 1979, and
- (c) article 2(1) of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013.

Textual Amendments

F5 Words in reg. 70 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **12(e)**

Commencement Information

I10 Reg. 70 in force at 20.2.2019, see reg. 1(3)

Marginal Citations

M8 Sections 266 to 269 were amended by Schedule 18 to the Financial Services Act 2012.

M9 Section 266(1A) was inserted by [S.I. 2003/2066](#).

M10 Paragraph 5(f) of Schedule 3 was amended by [S.I. 2011/1613](#) and [S.I. 2013/1773](#).

M11 [S.I. 2018/1149](#).

Directions

71. Any power of the FCA to give a direction under this Part includes power—

- (a) to give different directions in relation to different persons or categories of person;

Status: Point in time view as at 30/04/2021.

Changes to legislation: The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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)

(b) to vary or revoke a previous direction.

Commencement Information

I11 Reg. 71 in force at 20.2.2019, see reg. 1(3)

Status:

Point in time view as at 30/04/2021.

Changes to legislation:

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019, PART 6 is up to date with all changes known to be in force on or before 17 May 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.