



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVII

#### COLLECTIVE INVESTMENT SCHEMES

#### CHAPTER III

#### AUTHORISED UNIT TRUST SCHEMES

##### *Powers of intervention*

#### 257 Directions.

- (1) The [<sup>F1</sup>FCA] may give a direction under this section if it appears to the [<sup>F1</sup>FCA] that—
  - (a) one or more of the requirements for the making of an authorisation order are no longer satisfied;
  - [<sup>F2</sup>(b) the manager or trustee of an authorised unit trust scheme has contravened, or is likely to contravene, a requirement imposed—
    - (i) by or under this Act; or
    - (ii) by any directly applicable Community regulation or decision made under the UCITS directive;]
  - (c) the manager or trustee of such a scheme has, in purported compliance with any such requirement, knowingly or recklessly given the [<sup>F1</sup>FCA] information which is false or misleading in a material particular; or
  - (d) none of paragraphs (a) to (c) applies, but it is desirable to give a direction in order to protect the interests of participants or potential participants in such a scheme.
- (2) A direction under this section may—
  - (a) require the manager of the scheme to cease the issue or redemption, or both the issue and redemption, of units under the scheme;
  - (b) require the manager and trustee of the scheme to wind it up.

*Status: Point in time view as at 01/03/2016.*

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- (3) If the authorisation order is revoked, the revocation does not affect any direction under this section which is then in force.
- (4) A direction may be given under this section in relation to a scheme in the case of which the authorisation order has been revoked if a direction under this section was already in force at the time of revocation.
- (5) If a person contravenes a direction under this section, [<sup>F3</sup>section 138D] applies to the contravention as it applies to a contravention mentioned in that section.
- (6) The [<sup>F1</sup>FCA] may, either on its own initiative or on the application of the manager or trustee of the scheme concerned, revoke or vary a direction given under this section if it appears to the [<sup>F1</sup>FCA]—
  - (a) in the case of revocation, that it is no longer necessary for the direction to take effect or continue in force;
  - (b) in the case of variation, that the direction should take effect or continue in force in a different form.

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F2** S. 257(1)(b) substituted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(20\)](#)
- F3** Words in s. 257(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### Modifications etc. (not altering text)

- C1** S. 257(1) extended (1.12.2001) by [S.I. 2001/2636, arts. 1\(2\)\(b\), 69\(1\)](#); [S.I. 2001/3538, art. 2\(1\)](#)
- C2** S. 257(6) extended (1.12.2001) by [S.I. 2001/2636, arts. 1\(2\)\(b\), 69\(3\)](#); [S.I. 2001/3538, art. 2\(1\)](#)

#### Commencement Information

- I1** S. 257 wholly in force at 1.12.2001; s. 257 not in force at Royal Assent see s. 431(2); s. 257 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); s. 257 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

## 258 Applications to the court.

- (1) If the [<sup>F1</sup>FCA] could give a direction under section 257, it may also apply to the court for an order—
  - (a) removing the manager or the trustee, or both the manager and the trustee, of the scheme; and
  - (b) replacing the person or persons removed with a suitable person or persons nominated by the [<sup>F1</sup>FCA].
- (2) The [<sup>F1</sup>FCA] may nominate a person for the purposes of subsection (1)(b) only if it is satisfied that, if the order was made, the requirements of section 243(4) to (7) would be complied with.
- (3) If it appears to the [<sup>F1</sup>FCA] that there is no person it can nominate for the purposes of subsection (1)(b), it may apply to the court for an order—

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- (a) removing the manager or the trustee, or both the manager and the trustee, of the scheme; and
  - (b) appointing an authorised person to wind up the scheme.
- (4) On an application under this section the court may make such order as it thinks fit.
- (5) The court may, on the application of the [F1FCA], rescind any such order as is mentioned in subsection (3) and substitute such an order as is mentioned in subsection (1).
- (6) The [F1FCA] must give written notice of the making of an application under this section to the manager and trustee of the scheme concerned.
- (7) The jurisdiction conferred by this section may be exercised by—
- (a) the High Court;
  - (b) in Scotland, the Court of Session.

#### Textual Amendments

**F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### [F4258A Winding up or merger of master UCITS

- (1) Subsection (2) applies if a master UCITS which has one or more feeder UCITS which are authorised unit trust schemes is wound up, whether as a result of a direction given by the [F1FCA] under section 257 [F5or 261X], an order of the court under section 258 [F6or 261Y], rules made by the [F1FCA] or otherwise.
- (2) The [F1FCA] must direct the manager and trustee of any authorised unit trust scheme which is a feeder UCITS of the master UCITS to wind up the feeder UCITS unless—
  - (a) the [F1FCA] approves under section 283A the investment by the feeder UCITS of at least 85% of the total property which is subject to the collective investment scheme constituted by the feeder UCITS in units of another UCITS or master UCITS; or
  - (b) the [F1FCA] approves under section 252A an amendment of the trust deed of the feeder UCITS which would enable it to convert into a UCITS which is not a feeder UCITS.
- (3) Subsection (4) applies if a master UCITS which has one or more feeder UCITS which are authorised unit trust schemes—
  - (a) merges with another UCITS, or
  - (b) is divided into two or more UCITS.
- (4) The [F1FCA] must direct the manager and trustee of any authorised unit trust scheme which is a feeder UCITS of the master UCITS to wind up the scheme unless—
  - (a) the [F1FCA] approves under section 283A the investment by the scheme of at least 85% of the total property which is subject to the collective investment scheme constituted by the feeder UCITS in the units of—
    - (i) the master UCITS which results from the merger;
    - (ii) one of the UCITS resulting from the division; or
    - (iii) another UCITS or master UCITS;

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- (b) the [F1FCA] approves under section 252A an amendment of the trust deed of the scheme which would enable it to convert into a UCITS which is not a feeder UCITS.]

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 18 para. 9(1)(2) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F4** S. 258A inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(21\)](#)
- F5** Words in s. 258A(1) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(9\)\(a\)](#) (with [reg. 24](#))
- F6** Words in s. 258A(1) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(9\)\(b\)](#) (with [reg. 24](#))

#### 259 Procedure on giving directions under section 257 [F7or 258A] and varying them on [F8FCA's] own initiative.

- (1) A direction [F9under section 257 or 258A] takes effect—
- immediately, if the notice given under subsection (3) states that that is the case;
  - on such date as may be specified in the notice; or
  - if no date is specified in the notice, when the matter to which it relates is no longer open to review.
- (2) A direction [F10under section 257] may be expressed to take effect immediately (or on a specified date) only if the [F1FCA], having regard to the ground on which it is exercising its power under [F11that section], considers that it is necessary for the direction to take effect immediately (or on that date).
- (3) If the [F1FCA] proposes to give a direction under [F12section 257 or 258A, or gives a direction under either section] with immediate effect, it must give separate written notice to the manager and the trustee of the scheme concerned.
- (4) The notice must—
- give details of the direction;
  - inform the person to whom it is given of when the direction takes effect;
  - state the [F1FCA's] reasons for giving the direction and for its determination as to when the direction takes effect;
  - inform the person to whom it is given that he may make representations to the [F1FCA] within such period as may be specified in it (whether or not he has referred the matter to the Tribunal); and
  - inform him of his right to refer the matter to the Tribunal.
- (5) If the direction imposes a requirement under section 257(2)(a), the notice must state that the requirement has effect until—
- a specified date; or
  - a further direction.
- (6) If the direction [F13is given under section 257(2)(b) or section 258A(2) or (4)], the scheme must be wound up—
- by a date specified in the notice; or

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- (b) if no date is specified, as soon as practicable.
- (7) The [F1FCA] may extend the period allowed under the notice for making representations.
- (8) If, having considered any representations made by a person to whom the notice was given, the [F1FCA] decides—
- (a) to give the direction in the way proposed, or
  - (b) if it has been given, not to revoke the direction,
- it must give separate written notice to the manager and the trustee of the scheme concerned.
- (9) If, having considered any representations made by a person to whom the notice was given, the [F1FCA] decides—
- (a) not to give the direction in the way proposed,
  - (b) to give the direction in a way other than that proposed, or
  - (c) to revoke a direction which has effect,
- it must give separate written notice to the manager and the trustee of the scheme concerned.
- (10) A notice given under subsection (8) must inform the person to whom it is given of his right to refer the matter to the Tribunal.
- (11) A notice under subsection (9)(b) must comply with subsection (4).
- (12) If a notice informs a person of his right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (13) This section applies to the variation of a direction on the [F1FCA's] own initiative as it applies to the giving of a direction.
- (14) For the purposes of subsection (1)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 18 para. 9(1)(2) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 259 heading inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(22\)\(a\)](#)
- F8** Word in s. 259 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 18 para. 9(1)(2) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F9** Words in s. 259(1) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(22\)\(b\)](#)
- F10** Words in s. 259(2) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(10\)\(a\)\(i\)](#) (with [reg. 24](#))
- F11** Words in s. 259(2) substituted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(10\)\(a\)\(ii\)](#) (with [reg. 24](#))
- F12** Words in s. 259(3) substituted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(10\)\(b\)](#) (with [reg. 24](#))
- F13** Words in s. 259(6) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(22\)\(c\)](#)

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#### Commencement Information

- I2** S. 259 wholly in force at 1.12.2001; s. 259 not in force at Royal Assent see s. 431(2); s. 259 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\)](#), [Sch. Pt. 2](#); s. 259 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

### 260 Procedure: refusal to revoke or vary direction.

- (1) If on an application under section 257(6) for a direction to be revoked or varied the [F<sup>1</sup>FCA] proposes—
  - (a) to vary the direction otherwise than in accordance with the application, or
  - (b) to refuse to revoke or vary the direction,
 it must give the applicant a warning notice.
- (2) If the [F<sup>1</sup>FCA] decides to refuse to revoke or vary the direction—
  - (a) it must give the applicant a decision notice; and
  - (b) the applicant may refer the matter to the Tribunal.

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### Commencement Information

- I3** S. 260 wholly in force at 1.12.2001; s. 260 not in force at Royal Assent see s. 431(2); s. 260 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\)](#), [Sch. Pt. 2](#); s. 260 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

### 261 Procedure: revocation of direction and grant of request for variation.

- (1) If the [F<sup>1</sup>FCA] decides on its own initiative to revoke a direction under section 257 it must give separate written notices of its decision to the manager and trustee of the scheme.
- (2) If on an application under section 257(6) for a direction to be revoked or varied the [F<sup>1</sup>FCA] decides to revoke the direction or vary it in accordance with the application, it must give the applicant written notice of its decision.
- (3) A notice under this section must specify the date on which the decision takes effect.
- (4) The [F<sup>1</sup>FCA] may publish such information about the revocation or variation, in such way, as it considers appropriate.

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

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#### Commencement Information

- I4** S. 261 wholly in force at 1.12.2001; s. 261 not in force at Royal Assent see s. 431(2); s. 261 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2 Sch. Pt. 2](#); s. 261 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### [<sup>F14</sup>261A] Information for home state regulator

- (1) Subsection (2) applies if, in accordance with rules made by the [<sup>F1</sup>FCA] to implement Article 66 of the UCITS directive, the [<sup>F1</sup>FCA] is informed by the manager of an authorised unit trust scheme which is a master UCITS that a feeder UCITS which invests in units of the scheme is an EEA UCITS.
- (2) The [<sup>F1</sup>FCA] must immediately inform the home state regulator of the feeder UCITS of the investment made by that UCITS in the master UCITS.

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F14** Ss. 261A, 261B inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(23\)](#)

#### 261B Information for feeder UCITS

- (1) The [<sup>F1</sup>FCA] must immediately inform the operator of any authorised unit trust scheme which is a feeder UCITS of an authorised unit trust scheme [<sup>F15</sup>, an authorised contractual scheme] or an authorised open-ended investment company (the master UCITS) of—
  - (a) any failure of which the [<sup>F1</sup>FCA] becomes aware by the master UCITS to comply with a provision made in implementation of Chapter VIII of the UCITS directive;
  - (b) any warning notice or decision notice given to the master UCITS in relation to a contravention of any provision made in implementation of Chapter VIII of the UCITS directive by or under any enactment or in rules of the [<sup>F1</sup>FCA];
  - (c) any information reported to the [<sup>F1</sup>FCA] pursuant to rules of the [<sup>F1</sup>FCA] made to implement Article 106(1) of the UCITS directive which relates to the master UCITS, or to one or more of its directors, or its management company, trustee, depository or auditor.
- (2) The [<sup>F1</sup>FCA] must immediately inform the operator of any authorised unit trust scheme which is a feeder UCITS of an EEAUCITS of any information received from the home state regulator of the EEAUCITS in relation to—
  - (a) any failure by the EEAUCITS to comply with any requirement in Chapter VIII of the UCITS directive;
  - (b) any decision or measure imposed on the EEAUCITS under provisions implementing Chapter VIII of the UCITS directive;
  - (c) any information reported to the home state regulator pursuant to Article 106(1) of the UCITS directive relating to the EEAUCITS, its operator, depository or auditor.

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- (3) Where the [FCA] has the information described in subsection (1)(a), (b) or (c) in relation to an authorised unit trust scheme which is a master UCITS for one or more feeder UCITS which are EEAUCITS, the [FCA] must immediately give that information to the home state regulator of each feeder UCITS established outside the United Kingdom.]

#### Textual Amendments

- F1** Word in ss. 254-262 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 18 para. 9(1)(2) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F14** Ss. 261A, 261B inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), reg. 2(23)
- F15** Words in s. 261B(1) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, 3(11) (with reg. 24)



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