



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVII

COLLECTIVE INVESTMENT SCHEMES

CHAPTER V

RECOGNISED OVERSEAS SCHEMES

Individually recognised overseas schemes

272 Individually recognised overseas schemes.

- (1) The [F¹FCA] may, on the application of the operator of a collective investment scheme which—
 - (a) is managed in a country or territory outside the United Kingdom,
 - (b) does not satisfy the requirements prescribed for the purposes of section 264, [F²and]
 - ^{F3}(c)
 - (d) appears to the [F¹FCA] to satisfy the requirements set out in the following provisions of this section,make an order declaring the scheme to be a recognised scheme.
- (2) Adequate protection must be afforded to participants in the scheme.
- (3) The arrangements for the scheme's constitution and management must be adequate.
- (4) The powers and duties of the operator and, if the scheme has a trustee or depositary, of the trustee or depositary must be adequate.
- (5) In deciding whether the matters mentioned in subsection (3) or (4) are adequate, the [F¹FCA] must have regard to—
 - (a) any rule of law, and

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- (b) any matters which are, or could be, the subject of rules, applicable in relation to comparable authorised schemes.
- (6) “Comparable authorised schemes” means whichever of the following the [F1FCA] considers the most appropriate, having regard to the nature of scheme in respect of which the application is made—
- (a) authorised unit trust schemes;
 - [F4(aa) authorised contractual schemes which are co-ownership schemes;
 - (ab) authorised contractual schemes which are partnership schemes;]
 - (b) authorised open-ended investment companies;
 - [F5(c) any two or more of the kinds of collective investment scheme mentioned in paragraphs (a) to (b).]
- (7) The scheme must take the form of an open-ended investment company or (if it does not take that form) the operator must be a body corporate.
- (8) The operator of the scheme must—
- (a) if an authorised person, have permission to act as operator;
 - (b) if not an authorised person, be a fit and proper person to act as operator.
- (9) The trustee or depositary (if any) of the scheme must—
- (a) if an authorised person, have permission to act as trustee or depositary;
 - (b) if not an authorised person, be a fit and proper person to act as trustee or depositary.
- (10) The operator and the trustee or depositary (if any) of the scheme must be able and willing to co-operate with the [F1FCA] by the sharing of information and in other ways.
- (11) The name of the scheme must not be undesirable or misleading.
- (12) The purposes of the scheme must be reasonably capable of being successfully carried into effect.
- (13) The participants must be entitled to have their units redeemed in accordance with the scheme at a price related to the net value of the property to which the units relate and determined in accordance with the scheme.
- (14) But a scheme is to be treated as complying with subsection (13) if it requires the operator to ensure that a participant is able to sell his units on an investment exchange at a price not significantly different from that mentioned in that subsection.
- (15) Subsection (13) is not to be read as imposing a requirement that the participants must be entitled to have their units redeemed (or sold as mentioned in subsection (14)) immediately following a demand to that effect.

Textual Amendments

- F1** Word in ss. 271-283B 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** Word in [s. 272\(1\)](#) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\), reg. 1, Sch. 1 para. 19\(a\)](#)
- F3** [S. 272\(1\)\(c\)](#) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\), reg. 1, Sch. 1 para. 19\(b\)](#)

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- F4** S. 272(6)(aa)(ab) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, **3(14)(a)** (with reg. 24)
- F5** S. 272(6)(c) substituted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, **3(14)(b)** (with reg. 24)

Modifications etc. (not altering text)

- C1** S. 272(1) extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 68(1); [S.I. 2001/3538](#), **art. 2(1)**
- C2** S. 272(8)(9) modified (31.10.2001) by [S.I. 2001/3374](#), **art. 1**, **Sch. para. 9**

Commencement Information

- I1** S. 272 wholly in force at 1.12.2001; s. 272 not in force at Royal Assent see s. 431(2); s. 272 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 272 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

273 Matters that may be taken into account.

For the purposes of subsections (8)(b) and (9)(b) of section 272, the [F¹FCA] may take into account any matter relating to—

- (a) any person who is or will be employed by or associated with the operator, trustee or depositary in connection with the scheme;
- (b) any director of the operator, trustee or depositary;
- (c) any person exercising influence over the operator, trustee or depositary;
- (d) any body corporate in the same group as the operator, trustee or depositary;
- (e) any director of any such body corporate;
- (f) any person exercising influence over any such body corporate.

Textual Amendments

- F1** Word in ss. 271-283B 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

- I2** S. 273 wholly in force at 1.12.2001; s. 273 not in force at Royal Assent see s. 431(2); s. 273 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 273 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

274 Applications for recognition of individual schemes.

- (1) An application under section 272 for an order declaring a scheme to be a recognised scheme must be made to the [F¹FCA] by the operator of the scheme.
- (2) The application—
 - (a) must be made in such manner as the [F¹FCA] may direct;
 - (b) must contain the address of a place in the United Kingdom for the service on the operator of notices or other documents required or authorised to be served on him under this Act;
 - (c) must contain or be accompanied by such information as the [F¹FCA] may reasonably require for the purpose of determining the application.

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- (3) At any time after receiving an application and before determining it, the [F¹FCA] may require the applicant 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 [F¹FCA] may require an applicant to present information which he is required to give under this section in such form, or to verify it in such a way, as the [F¹FCA] may direct.

Textual Amendments

- F1** Word in ss. 271-283B 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.](#)

Modifications etc. (not altering text)

- C3** S. 274 extended (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 44\(1\)](#) (with [art. 23\(2\)](#))

Commencement Information

- I3** S. 274 wholly in force at 1.12.2001; s. 274 not in force at Royal Assent see s. 431(2); s. 274(2) in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); s. 274 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); s. 274 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

275 Determination of applications.

- (1) An application under section 272 must be determined by the [F¹FCA] before the end of the period of six months beginning with the date on which it receives the completed application.
- (2) The [F¹FCA] 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.
- (3) If the [F¹FCA] makes an order under section 272(1), it must give written notice of the order to the applicant.

Textual Amendments

- F1** Word in ss. 271-283B 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.](#)

Modifications etc. (not altering text)

- C4** S. 275(1)(2) modified (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 44\(2\)\(3\)](#) (with [art. 23\(2\)](#))

Commencement Information

- I4** S. 275 wholly in force at 1.12.2001; s. 275 not in force at Royal Assent see s. 431(2); s. 275 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); s. 275 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

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276 Procedure when refusing an application.

- (1) If the [^{F1}FCA] proposes to refuse an application made under section 272 it must give the applicant a warning notice.
- (2) If the [^{F1}FCA] decides to refuse the application—
 - (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. 271-283B 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

- I5** S. 276 wholly in force at 1.12.2001; s. 276 not in force at Royal Assent see s. 431(2); s. 276 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); s. 276 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

277 Alteration of schemes and changes of operator, trustee or depositary.

- (1) The operator of a scheme recognised by virtue of section 272 must give written notice to the [^{F1}FCA] of any proposed alteration to the scheme.
- (2) Effect is not to be given to any such proposal unless—
 - (a) the [^{F1}FCA], by written notice, has given its approval to the proposal; or
 - (b) one month, beginning with the date on which notice was given under subsection (1), has expired without the [^{F1}FCA] having given written notice to the operator that it has decided to refuse approval.
- (3) At least one month before any replacement of the operator, trustee or depositary of such a scheme, notice of the proposed replacement must be given to the [^{F1}FCA]—
 - (a) by the operator, trustee or depositary (as the case may be); or
 - (b) by the person who is to replace him.
- [^{F6}(4) If a change is made, or is to be made, to the law which applies to such a scheme in the country or territory in which it is managed and the change affects or will affect any of the matters mentioned at section 272(2) to (4), the operator of the scheme must give written notice of the change to the FCA—
 - (a) at least one month before the change takes effect; or
 - (b) if that is not reasonably practicable, as soon as it is reasonably practicable to do so.
- (5) A notice under this section—
 - (a) must be given in such manner as the FCA may direct; and
 - (b) where the notice is given under subsection (1) or (3), must include such information as the FCA may direct for the purpose of determining whether the requirements for the making of an order under section 272 in respect of the scheme would continue to be satisfied following the alteration or replacement that is the subject of the notice.]

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Textual Amendments

- F1** Word in ss. 271-283B 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.
- F6** S. 277(4)(5) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 20**

Modifications etc. (not altering text)

- C5** S. 277(1) amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(9); S.I. 2001/3538, **art. 2(1)**
 S. 277(1) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 45(1) (with [art. 23\(2\)](#))
- C6** S. 277(2)(b) modified (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 45(2) (with [art. 23\(2\)](#))
- C7** S. 277(3) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 45(3) (with [art. 23\(2\)](#))

Commencement Information

- I6** S. 277 wholly in force at 1.12.2001; s. 277 not in force at Royal Assent see s. 431(2); s. 277 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2)**, **Sch. Pt. 2**; s. 277 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[^{F7}277A. Regular provision of information relating to compliance with requirements for recognition

- (1) The operator of a scheme recognised by virtue of section 272 must provide to the FCA such information as the FCA may direct, at such times as the FCA may direct, for the purpose of determining whether the requirements for the making of an order under section 272 in respect of the scheme continue to be satisfied.
- (2) A direction under subsection (1) may not require information to be provided within the period of 12 months beginning with the date on which information was last required to be provided to the FCA in respect of the scheme pursuant to a requirement under section 274(2)(c) or a direction under subsection (1) or section 277(5)(b).
- (3) The information must be provided in such manner as the FCA may direct.]

Textual Amendments

- F7** S. 277A inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 21**

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