



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVII

COLLECTIVE INVESTMENT SCHEMES

[^{F1}CHAPTER 3A

AUTHORISED CONTRACTUAL SCHEMES

[^{F1}Rules

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)

261I. Contractual scheme rules

- (1) The FCA may by rules (“contractual scheme rules”) make in relation to authorised contractual schemes provision corresponding to that which may be made under section 247 in relation to authorised unit trust schemes.
- (2) For the purposes of subsection (1), section 247 is to be read with the following modifications—
 - (a) a reference to trust scheme rules is to be read as a reference to contractual scheme rules;
 - (b) a reference to authorised unit trust schemes is to be read as a reference to authorised contractual schemes;
 - (c) a reference to the manager is to be read as a reference to the operator;
 - (d) a reference to the trustee is to be read as a reference to the depositary; and

Status: Point in time view as at 01/03/2016.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Rules is up to date with all changes known to be in force on or before 17 April 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)

- (e) a reference to the trust deed is to be read as a reference to the contractual scheme deed.
- (3) The Treasury’s power by order under section 247(5) to modify the FCA’s power to make trust scheme rules shall also be exercisable in relation to the FCA’s power to make contractual scheme rules.
- (4) For the purposes of subsection (3), section 247(5) is to be read as if the reference to authorised unit trust schemes were a reference to authorised contractual schemes.

261J. Contractual scheme particulars rules

- (1) The FCA may by rules (“contractual scheme particulars rules”) make in relation to authorised contractual schemes provision corresponding to that which may be made under section 248 in relation to authorised unit trust schemes.
- (2) For the purposes of subsection (1), section 248 is to be read with the following modifications—
 - (a) a reference to scheme particulars rules is to be read as a reference to contractual scheme particulars rules;
 - (b) a reference to scheme particulars is to be read as a reference to contractual scheme particulars; and
 - (c) a reference to the manager of an authorised unit trust scheme is to be read as a reference to the operator of an authorised contractual scheme.

261K. Disciplinary measures

- (1) If it appears to the FCA that an auditor has failed to comply with a duty imposed on the auditor by contractual scheme rules, it may do one or more of the following—
 - (a) disqualify the auditor from being the auditor of any authorised unit trust scheme, authorised contractual scheme or authorised open-ended investment company;
 - (b) publish a statement to the effect that it appears to the FCA that the auditor has failed to comply with the duty;
 - (c) impose on the auditor a penalty, payable to the FCA, of such amount as the FCA considers appropriate.
- (2) Sections 345B to 345E have effect in relation to the taking of action under subsection (1) as they have effect in relation to the taking of action under section 345(2).

261L. Modification or waiver of rules

- (1) In this section “rules” means—
 - (a) contractual scheme rules; or
 - (b) contractual scheme particulars rules.
- (2) The FCA may, on the application or with the consent of any person to whom rules apply, direct that all or any of the rules—
 - (a) are not to apply to that person as respects a particular scheme; or
 - (b) are to apply to that person, as respects a particular scheme, with such modifications as may be specified in the direction.

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- (3) The FCA may, on the application or with the consent of the operator and depositary of a particular scheme acting jointly, direct that all or any of the rules—
- (a) are not to apply to the scheme; or
 - (b) are to apply to the scheme with such modifications as may be specified in the direction.
- (4) Section 138A and subsections (1) to (3), (5) and (6) of section 138B have effect in relation to a direction under subsection (2) as they have effect in relation to a direction under section 138A(1) but with the following modifications—
- (a) any reference to the person is to be read as a reference to the person mentioned in subsection (2); and
 - (b) section 138B(3)(c) is to be read, in relation to a participant in the scheme, as if the word “commercial” were omitted.
- (5) Section 138A and subsections (1) to (3), (5) and (6) of section 138B have effect in relation to a direction under subsection (3) as they have effect in relation to a direction under section 138A(1) but with the following modifications—
- (a) subsection (4)(a) of section 138A is to be read as if the words “by the person” were omitted;
 - (b) section 138B(3)(c) and the definition of “immediate group” in section 421ZA as it applies to that section are to be read as if references to the person were references to each of the operator and the depositary of the scheme;
 - (c) section 138B(3)(c) is to be read, in relation to a participant in the scheme, as if the word “commercial” were omitted;
 - (d) section 138B(5) is to be read as if the reference to the person concerned were a reference to the scheme concerned and to its operator and depositary; and
 - (e) section 138A(7) is to be read as if the reference to the person were a reference to the operator and depositary of the scheme acting jointly.]

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