FINANCIAL REGULATOR
Rialtóir Airgeadais

UCITS NOTICES

UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES AUTHORISED UNDER EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES) REGULATIONS 2003

April 2008

EXPLANATORY MEMORANDUM

European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003, as amended, ("the Regulations"), implement EC Council Directive 85/611/EEC, as amended, on the Co-ordination of Laws, Regulations and Administrative Provisions relating to Undertakings for Collective Investment in Transferable Securities (UCITS). The Central Bank and Financial Services Authority of Ireland ("the Bank") is designated in the Regulations as the competent authority with responsibility for the authorisation and supervision of UCITS. The functions of the Bank that are provided for in the Regulations are to be performed by the Irish Financial Services Regulatory Authority, ("the Financial Regulator"), pursuant to section 33C (1)(a) of the Central Bank and Financial Services Authority of Ireland Act 2003. Accordingly, any unit trust, common contractual fund, open-ended variable capital company or open-ended fixed capital company must be authorised by the Financial Regulator in order to be established as a UCITS in Ireland.

The Financial Regulator has produced this series of UCITS Notices in order to:

(i) explain and clarify various aspects of the Regulations; and

(ii) set down conditions not contained in the Regulations with which UCITS must conform.

This series of UCITS Notices must be read in conjunction with the Regulations. The Notices do not purport to be a full or legal interpretation of the Regulations. UCITS must comply with all of the provisions of the Regulations not just those provisions referred to in the Notices. Where individual Regulations are quoted the Notices are intended to act as guidelines.

The following points should be noted:

(1) Collective investment schemes other than UCITS may be established as unit trusts, under the Unit Trusts Act, 1990, investment companies under the Companies Act, 1990 Part XIII, investment limited partnerships under the Investment Limited Partnerships Act, 1994 and common contractual funds under the Investment Funds, Companies and Miscellaneous Provisions Act,

2005. The Financial Regulator has issued a separate set of Notices for collective investment schemes other than UCITS.

(2) These UCITS Notices also apply to the marketing, in Ireland, of a UCITS established in another Member State.

(3) **Interpretation:**

For the purposes of these Notices the following interpretations and definitions shall apply:

Associated company: This term has the same meaning as is given to "associated undertaking" in the European Communities (Companies: Group Accounts) Regulations, 1992 (S.I. No. 201 of 1992). In general this states that companies are associated where a significant influence may be exercised by one company over the operating and financial policy of another. This is deemed to be the case where 20 per cent or more of the voting rights in one company are owned directly or indirectly by another.

Financial Regulator's Licensing Requirements: The Licensing and Supervision Requirements and Standards for Credit Institutions as issued by the Financial Regulator from time to time.

Best execution: The best price available in the market, exclusive of any charges but taking account of any other exceptional circumstances such as counterparty risk, order size or client instructions.

Collective portfolio management: Management of UCITS and other collective investment undertakings. Management includes the functions of investment management, administration and marketing.

CIS: This term refers to a UCITS or non-UCITS collective investment undertaking.

Credit institution: A credit institution within the meaning of Council Directives 77/780/EEC and 89/646/EEC.

Credit ratings: References to credit ratings are made in some of the notices. The ratings referred to are Standard and Poors. An "**equivalent rating"** for the purposes of these notices is one which has been provided by an internationally recognised rating agency and which is deemed equivalent to the rating stipulated in the notice. An **"implied rating"** arises where a decision on an unrated entity is made by a UCITS on the basis of a relationship between an issuer and its rated parent, or where an issuer has a senior debt/long term rating but no short term rating.

Group companies: Companies which are included in the same group for the purposes of consolidated accounts, as defined in accordance with Directive 83/349/EEC[1] or in accordance with recognised international accounting rules.

Individual portfolio management: Discretionary portfolio management on a client-by-client basis.

Investment and borrowing restrictions: For the purposes of the application of investment and borrowing restrictions, references in Notices UCITS 9, UCITS 10 and UCITS 11 to "assets" and "value of the fund" means net assets of a UCITS. UCITS may be established with mixed investment objectives. In these circumstances the investment restrictions applicable to particular types of assets apply to the net asset value of the UCITS as a whole.

Liquid: money market instruments/transferable securities are regarded as being liquid where they can be repurchased, redeemed or sold at limited cost, in terms of low fees and narrow bid/offer spread, and with very short settlement delay.

---

[1] Seventh Council Directive of 13 June 1983 based on article 54(3)(g) of the Treaty on consolidated accounts

Management company: A company whose regular business is collective portfolio management.

Related company: This term has the same meaning as in the Companies Act, 1990 [Section 140(5)]. In general this states that companies are related where 50 per cent of the paid up capital of, or 50 per cent of the voting rights in, one company are owned directly or indirectly by another.

Trustee: The trustee function in respect of a unit trust, a common contractual fund or an investment company includes the custodian function.

Unitholder: This term applies to a shareholder in the case of an investment company, a participant in a common contractual fund and a unitholder in the case of a unit trust.

Units: This term applies to shares of an investment company and units of a unit trust or a common contractual fund.

LIST of UCITS NOTICES

Financial Institutions and Funds Authorisation
Financial Regulator
April 2008

UCITS 1.1

Undertakings for Collective Investment in Transferable Securities

Information and document requirements of the Financial Regulator in support of an application for authorisation as a UCITS

General Information Required for all UCITS

An application for authorisation of a UCITS shall be made in writing to the Financial Regulator. Applications must contain the following information:

1. the name of the UCITS;

2. a statement of the general nature of the investment objectives of the UCITS;

3. the prospectus;

4. the full name and address of the promoter of the UCITS. Sufficient information concerning the promoter to enable the Financial Regulator to be satisfied as to its expertise, integrity and adequacy of financial resources. This information should include, inter alia, details of shareholders, latest audited accounts and details of overseas regulatory status (if any);

5. where a UCITS proposes to employ the services of a management company the following information is to be supplied in respect of that company:

   (i) full name and address;

   (ii) memorandum and articles of association;

   (iii) the names of the directors, the company secretary, and the shareholders;

   (iv) sufficient information in respect of all directors and shareholders to enable the Financial Regulator to be satisfied that they have appropriate expertise and are of good reputation and, in the case of shareholders, that they have appropriate financial resources. This information should include, inter

alia, a curriculum vitae in the case of each director and latest audited accounts and details of overseas regulatory status (if any) in the case of each shareholder of a management company.

6. the full name and address of the proposed trustee;

7. the full name and address of the proposed investment adviser, if it is different from the management company or investment company and a copy of the relevant agreement with the adviser. Sufficient information concerning the investment adviser to enable the Financial Regulator to be satisfied as to its expertise, integrity and adequacy of financial resources. This information should include, inter alia, details of shareholders, latest audited accounts and details of the overseas regulatory status (if any);

8. the full name and address of the auditor;

9. the full name and address of any third party which has been contracted by the UCITS, or management company acting for the UCITS, to carry out its work and copies of the relevant agreements with the third party. Sufficient information concerning any third party involved to enable the Financial Regulator to be satisfied as to its expertise, integrity and adequacy of financial resources. This information should include, inter alia, details of shareholders, latest audited accounts and details of overseas regulatory status (if any);

10. such additional information as the Financial Regulator may specify in the course of determining individual applications.

Additional Information Required for Unit Trusts and Common Contractual Funds

An application for authorisation of a unit trust scheme or a common contractual fund shall be made in writing to the Financial Regulator by the management company. Applications must contain the following additional information:

11. the trust deed or deed of constitution

12. the agreement with the trustee, in the case of a common contractual fund.

Additional Information Required for Investment Companies

An application for authorisation of an investment company shall be made in writing to the Financial Regulator by the investment company. Applications must contain the following additional information:

13. the full name and address of the investment company and the memorandum and articles of association;

14. the names of the directors and the company secretary. Sufficient information in respect of all directors to enable the Financial Regulator to be satisfied that they have appropriate expertise and are of good reputation. This information should include, inter alia, a curriculum vitae in the case of each director;

15. a copy of the agreement between the company and the trustee.

Applications

All applications should be addressed to:

The Manager
Financial Institutions and Funds Authorisation
Financial Regulator
P.O. Box 9138
College Green
Dublin 2

UCITS 2.3

Undertakings for Collective Investment in Transferable Securities

General supervisory and reporting requirements for UCITS authorised by the Financial Regulator and certain firms providing services to such UCITS

A. Conditions relating directly to the UCITS - unit trust, common contractual fund and investment company

Obligations are derived directly from the provisions of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 ("the Regulations") or are conditions imposed by the Financial Regulator under Regulation 97 of the Regulations.

1. A UCITS which temporarily suspends the repurchase or redemption of its units must inform the Financial Regulator immediately, and in any event within the working day on which such suspension took effect.

2. The trust deed, the deed of constitution or the investment company's memorandum and articles of association may not be amended without the approval of the Financial Regulator.

3. A UCITS must send a monthly return and its annual and half-yearly reports to the Financial Regulator, as well as any other reports requested by the Financial Regulator. The contents of the monthly return, annual and half-yearly reports are set out in separate Notices.

4. A UCITS which intends to market its units in another Member State must inform the Financial Regulator of this intention.

5. The UCITS must notify the Financial Regulator on receipt of approval to market units in a jurisdiction other than a Member State of the European Union.

6. The following shall apply to directors of investment companies:

(i) Appointments to the office of director or alternate director require the prior approval of the Financial Regulator;

(ii) Departures from the office of director and the reason for the departure must be notified to the Financial Regulator immediately;

(iii) The board of directors must not have directors in common with the board of directors of its trustee;

(iv) A minimum of two directors must be Irish residents; and

(v) Directors are required to disclose to their board any concurrent directorships which they hold on the boards of authorised collective investment schemes and/or related entities which supply services to such schemes.

7. Material changes to the regulatory status, shareholder structure and financial standing of the promoter must be notified to the Financial Regulator.

8. The Financial Regulator must be notified in advance of proposed amendments to the following documentation:

(i) prospectus;

(ii) material agreements entered into with third parties.

The Financial Regulator may object to the amendments notified to it and amendments objected to by the Financial Regulator may not be made.

9. The management company of a UCITS may not be replaced without the approval of the Financial Regulator. The trust deed, the deed of constitution or the management agreement shall lay down the conditions for the replacement of the management company and rules to ensure the protection of unit holders in the event of such replacement.

10. The Financial Regulator must be notified in advance of any proposal to replace third parties which have contracted (directly or indirectly) with a UCITS to carry out services. The Financial Regulator may object to the proposals and replacements objected to by the Financial Regulator may not proceed.

11. The Financial Regulator requires a UCITS to be audited at the date of replacement of a management, administration or trustee company.

12. The UCITS is required to notify the Financial Regulator in advance, of any proposed change of auditor, and of the reasons for the proposed change.

Investment companies which do not designate a management company

13. An investment company which does not designate a management company must
    (i) have an initial capital of at least €300,000; and
    (ii) comply with the provisions of paragraphs 20-23; 34-36; 40 and 42-47 of this Notice.

B. Minimum activities of UCITS authorised by the Financial Regulator to be undertaken in the State

14. The calculation of a UCITS net asset value and dealing price, including the updating/confirmation of the prices of the underlying securities, must be undertaken in the State. The calculation of income and expense accruals must also be undertaken in the State.

15. All accounting records, i.e. income, expenses, assets and liabilities must be maintained in and updated in the State. Semi-annual and annual accounts must be prepared in the State. All detailed reconciliation i.e. stock, custody, register must be performed in the State; these are important elements of the books and records of a UCITS. Dividends must be issued from the State. In addition, the reconciliation of all bank accounts relating to a UCITS including those relating to dividends must be carried out in the State.

16. Maintenance and servicing of the unitholders' register including input, alteration and deletion of records must be carried out in the State. Unitholders' certificates or their equivalent must be issued in the State.

17. Correspondence to unitholders of a UCITS, including completed application forms from investors, any other instructions from investors and all dividend/income distributions, must originate from and be retained within the State. Unit certificates or their equivalent must be issued in the State, as must the processing and issue of redemption requests.

18. All the back-up documents underlying the books and records of a UCITS must be held in the State where they can be audited and, in addition, be subject to inspection by the Financial Regulator. The staff that maintain and prepare these books and records must be located in the State.

19. The conditions in paragraphs 14-18 do not preclude overseas hardware and software facilities being availed of by Irish management companies/ administrators/ trustees by means of direct access. However, the substantive administration and control of a UCITS must occur in the State.

C. Conditions applicable to management companies

Obligations are derived directly from provisions of the Regulations, or are conditions imposed by the Financial Regulator under Regulation 97 of the Regulations.

A management company may be authorised to provide collective portfolio management and individual portfolio management services. It may not be authorised solely to provide individual portfolio management services. A management company which is authorised to provide individual portfolio management services may also be authorised to provide investment advice and safekeeping and administration in relation to units of collective investment schemes[1].

Relationship with the Financial Regulator

20. In addition to the provisions of the Regulations, the management company is required to consult with the Financial Regulator prior to -
    (i) engaging in any significant new activities; or
    (ii) establishing new branches, offices or subsidiaries.

21. The management company is required to be open and co-operative in its dealings with the Financial Regulator and with all other relevant supervisory authorities. This requirement includes, but is not limited to, an obligation on the management company to notify the Financial Regulator as soon as it becomes aware of -

[1] Safekeeping and administration in relation to units of collective investment schemes refers solely to the provision of a nominee type service for individual unitholders and not to any custody function in relation to the assets of the UCITS.

(i) any breaches of the Regulations or of the Financial Regulator's requirements which are applicable to the management company;

(ii) breaches of other Irish legislation which may be of prudential concern to the Financial Regulator or which may impact on the reputation or good standing of the management company;

(iii) the commencement of any significant legal proceedings by or against the management company;

(iv) any situations or events which impact, or potentially impact, on the management company to a significant extent;

(v) the imposition on the management company of fines by another supervisory authority; or

(vi) a visit to the management company by another supervisory authority.

22. The management company is required to obtain the prior approval of the Financial Regulator in respect of a proposed change of its name. In addition, the management company is required to notify the Financial Regulator promptly of any change to the management company's address, telephone number or facsimile number.

23. The management company is required to participate in such meetings as the Financial Regulator considers necessary to review its operations and its business developments. A management company is required, for the purposes of such meetings, to supply any additional material as may be specified by the Financial Regulator, including internal auditors' reports, operating procedures and management letters issued by the firm's auditors and/or by the auditors of collective investment schemes under management. In addition, the Financial Regulator may conduct inspections of the operations of the management company if these are deemed necessary or appropriate.

24. The management company is required to state, on its headed paper, that it is regulated by the Financial Regulator. The management company must ensure that any references in publicity material to the role of the Financial Regulator in relation to its supervision of the management company's activities are not misleading.

25. Approval of the Financial Regulator is required in respect of any proposed change in direct or indirect ownership or in qualifying holdings. A qualifying holding for the purpose of this condition is defined as a shareholding of 10 per cent or more of the management company.

Capital

26. A management company must, at all times, maintain a minimum capital requirement equivalent to €125,000 ("Financial Resources Requirement").

27. When the net asset value of the collective investment schemes[2] under management exceed €250,000,000, the management company must provide an additional amount of own funds, which shall be equal to 0.02% of the amount by which the net asset value exceeds €250,000,000 ("the Additional Amount"). A management company need not provide up to 50% of this Additional Amount if it (i) benefits from a guarantee of the same amount given by a credit institution or insurance undertaking and (ii) the form of guarantee is approved by the Financial Regulator.

28. The total of the Financial Resources Requirement and the Additional Amount required to be held by the management company is not required to exceed €10,000,000.

29. The total of the Financial Resources Requirement and the Additional Amount required to be held by the management company shall never be less than one quarter of its preceding years fixed overheads ("Expenditure Requirement")

30. The Expenditure Requirement, or the Financial Resource Requirement if higher must be
    - held as eligible assets in a form which is easily accessible and must be free from any liens or charges;
    - maintained outside the management company's group.

---

[2] Collective investment schemes include UCITS and non-UCITS for which the manager is the designated management company.

The management company must be in a position to demonstrate its ongoing compliance with this requirement.

31. The form of any subordinated loan or capital contribution incorporated in the calculation of Financial Resources Requirement, (including repayment), is subject to the approval of the Financial Regulator.

32. Specific details and supplementary guidance in relation to these requirements are contained in the 'Capital Compliance Requirement'. This document, which may be amended from time to time, includes the Compliance with Minimum Capital Requirement Report and forms part of the UCITS Notices.

Directors

33. (i) Appointments to the office of director or alternate director require the prior approval of the Financial Regulator;

(ii) Departures from the office of director and the reason for the departure must be notified to the Financial Regulator immediately;

(iii) The board of directors must not have directors in common with the board of directors of the trustee of the collective investment undertakings for which it acts;

(iv) A minimum of two directors must be Irish residents;

(v) Directors are required to disclose to their board any concurrent directorships which they hold on the boards of authorised collective investment schemes and/or related entities which supply services to such schemes.

Management of Business

34. The management company is required to satisfy the Financial Regulator, on a continuing basis, that it has adequate management resources to conduct its activities effectively.

35. The management company is required to satisfy the Financial Regulator, on a continuing basis, that it has adequate control systems and accounting procedures to facilitate effective management of the management company and to ensure that the management company is in a position to satisfy the Financial

Regulator's supervisory and reporting requirements and compliance with the Regulations, as appropriate.

36. The management company is required to develop and maintain policies and systems to identify, monitor and control risk arising in respect of the management company's activities, including, for example, market risk, foreign exchange rate risk, credit risk, operational risk and the risk of fraud.

37. The management company is not permitted to manage collective investment schemes not authorised by the Financial Regulator. This does not prevent the management company from providing investment management, fund administration or marketing services to such schemes, under delegation arrangements.

Change of Auditor

38. The management company is required to notify the Financial Regulator in advance, of any proposed change of auditor, and of the reasons for the proposed change.

Reporting Requirements

39. Half-yearly financial and annual audited accounts of the management company must be submitted to the Financial Regulator. The half-yearly accounts must be submitted within two months and the annual accounts within four months of the relevant reporting period. Both half-yearly and annual accounts must be accompanied by the Capital Compliance Requirement, which forms part of these Notices. Annual audited accounts of the direct parents of the management company must also be submitted together with the accounts of any company within the group specified by the Financial Regulator.

40. The management company is required to respond to correspondence and to any requests for information from the Financial Regulator in a timely and thorough manner and within any period of time that may be specified by the Financial Regulator.

41. A management company which provides administration services to collective investment schemes not authorised by the Financial Regulator must be satisfied that the prospectus issued by the scheme does not imply, in any way, that the scheme is regulated by the Financial Regulator.

The firm is required to submit a quarterly return containing the following aggregate information for all schemes under administration, within each base currency category:

- domicile of the schemes
- number of schemes
- number of unit-holders
- total net asset value.

The Financial Regulator may request information on schemes not authorised by the Financial Regulator in order to effectively perform its role as supervisor of Irish service providers. Such requests do not imply any regulatory or supervisory role for the Financial Regulator in respect of such schemes.

Books and records requirements

42. A management company shall retain, in a readily accessible form, for a period of at least six years, a full record of each transaction entered into by it (whether on its own behalf or on behalf of collective investment schemes under management) and all records required to demonstrate compliance with the provisions of the Regulations, including conditions imposed by the Financial Regulator. Original documentation should be retained where appropriate. Any record shall be produced for inspection to the Financial Regulator within a reasonable period of time and, where it is not retained in legible form, must be capable of being reproduced in that form.

43. Where a management company contracts all or part of its record-keeping to another firm it must do so only in accordance with the provisions of a service agreement. The management company must ensure that any such service agreement does not conflict with any of its obligations under the Regulations or conditions imposed by the Financial Regulator. The management company should be aware that it retains ultimate responsibility for compliance with the

provisions of the Regulations and conditions imposed by the Financial Regulator.

44. A management company must have adequate procedures for the maintenance, security, privacy and preservation of records and working papers belonging to the management company or to collective investment schemes under management so that they are reasonably safeguarded against loss, unauthorised access, alteration or destruction.

45. Records maintained in accordance with the provisions of Regulation 98 of the Regulations must be kept up-to-date. In addition, the information must be recorded in such a way as to enable a particular transaction to be identified at any time and traced through the accounting systems of the management company.

46. A management company is required to maintain records that are adequate for the purposes of financial control and management information.

47. A management company shall ensure that its records contain as a minimum the following :

Financial

(a) details of all money received and expended by the management company whether on its own behalf or on behalf of collective investment schemes under management, together with details of how such receipts and payments arose;

(b) a record of all income and expenditure of the management company explaining its nature;

(c) a record of all assets and liabilities of the management company, long and short positions and off balance sheet items, including any commitments or contingent liabilities;

(d) details of all purchases and sales of investment instruments by the management company distinguishing those which are made by the firm on its own account and those which are made on behalf of collective investment schemes under management;

(e) any working papers necessary to show the preparation of any return submitted to the Financial Regulator;

(f) management information records maintained in a manner such that they disclose, or are capable of disclosing, in a prompt and appropriate manner, the financial and business information which will enable the firm's management to:
- identify, quantify, control and manage the management company's risk exposures;
- make timely and informed decisions;
- monitor the performance of all aspects of the management company's business on an up-to-date basis; and
- monitor the quality of the management company's assets.

Company Secretarial

(g) the share register;

(h) the register of directors' and secretary's interests;

(i) signed copies of the minutes of meetings of the board of directors;

(j) other statutory documents required under the Companies Acts.

Management companies which provide individual portfolio management services

48. A management company which is authorised to provide individual portfolio management services must, with respect to the additional activity, comply with the provisions of the European Communities (Markets in Financial Instruments) Regulations 2007 ("the MiFID Regulations"), as specified in Regulation 16A of the UCITS Regulations.

In addition the management company must comply with the Client Asset Requirements, imposed by the Financial Regulator under Regulation 79 of the MiFID Regulations.

49. A management company may not invest all or a part of an investor's portfolio in units of collective investment undertakings under management, unless it receives the prior approval of the investor.

D. Conditions relating to administration companies providing services to UCITS

Obligations are conditions imposed by the Financial Regulator under Section 14 of the Investment Intermediaries Act, 1995

50. An administration company must, at all times, maintain a minimum capital requirement equivalent to €125,000 ('Financial Resources Requirement') or one quarter of its preceding year's fixed overheads ('expenditure requirement'), whichever is higher. The administration company's minimum capital requirement must be held as eligible assets in a form which is easily accessible and must be free from any liens or charges.

An administration company, which is a member of a group, must maintain its minimum capital requirement outside the group. The administration company must be in a position to demonstrate its ongoing compliance with this requirement.

The form of any subordinated loan or capital contribution incorporated in the calculation of Financial Resources Requirement, (including repayment), is subject to the approval of the Financial Regulator.

Specific details and supplementary guidance in relation to these requirements are contained in the 'Capital Compliance Requirement'. This document, which may be amended from time to time, includes the Compliance with Minimum Capital Requirement Report and forms part of the UCITS Notices.

51. An administration company is required to identify an officer at management level, who shall be located in the State, with responsibility for compliance with all legal and regulatory requirements and for co-operation and liaison with the relevant regulatory authorities. Such person is to be designated the compliance officer and must have the necessary access to systems and records. The administration company is required to ensure that the compliance officer reports to the board of the company at each such meeting, but at least quarterly.

52. Paragraphs 20-25 and 33-47 of this Notice also apply to an administration company. References to "management company" should be taken to refer to "administration company" and references to "collective investment schemes under management" to "collective investment schemes under administration".

UCITS 3.1

Undertakings for Collective Investment in Transferable Securities

Trustees - eligibility criteria

1. The assets of a unit trust, a common contractual fund or an investment company must be entrusted to a trustee for safe-keeping in accordance with the Regulations. The assets shall belong exclusively to the UCITS. The assets shall be segregated from the assets of either the trustee or its agents or both and shall not be used to discharge directly or indirectly liabilities or claims against any other undertaking or entity and shall not be available for any such purpose.

2. The trust deed in the case of a unit trust, the deed of constitution in the case of a common contractual fund and the articles of association in the case of an investment company shall lay down the conditions for the replacement of the trustee and rules to ensure the protection of unitholders in the event of such replacement. The trustee may not be replaced without the approval of the Financial Regulator.

3. A trustee must either have its registered office in the State or have established a place of business in the State if its registered office is in another Member State.

4. Entities eligible to act as trustee are:

   (a) a credit institution authorised in the State with paid-up share capital which is not less than the limit specified in the Financial Regulator's Licensing Requirements,

   (b) a branch, established in the State, of a credit institution with a paid-up share capital which is not less than the limit specified in the Financial Regulator's Licensing Requirements, or

(c) a company incorporated in the State which

(i) is wholly owned by a credit institution, provided the liabilities of the trustee are guaranteed by the credit institution and the credit institution has paid-up share capital which is not less than the limit specified in the Financial Regulator's Licensing Requirements; or

(ii) is wholly owned by an institution in a non-Member State which is deemed by the Financial Regulator to be the equivalent of such a credit institution, provided the liabilities of the trustee are guaranteed by the parent institution and the parent institution has a paid-up share capital which is not less than the limit specified in the Financial Regulator's Licensing Requirements; or

(iii) is wholly owned by an institution or company either in a Member State or in a non-Member State which is deemed by the Financial Regulator to be an institution or company which provides unit-holders with protection equivalent to that provided by a trustee under Regulation 19(2) (a), (b), (c) (i) or (c) (ii) and provided the liabilities of the company acting as trustee are guaranteed by the institution or company and the institution or company has a paid-up share capital which is not less than the limit specified in the Financial Regulator's Licensing Requirements.

5. A trustee must satisfy the Financial Regulator that it has the appropriate expertise and experience to carry out its functions under the Regulations. The trustee must satisfy the Financial Regulator that it has sufficient management resources to effectively conduct its business. In addition its directors and managers should be persons of integrity and have an appropriate level of knowledge and experience. The trustee must organise and control its internal affairs in a reasonable manner with proper records and adequate arrangements for ensuring that employees are suitable, adequately trained and properly supervised. There should be well defined procedures in place to ensure compliance with regulations and the trustee should deal with regulators in an open and co-operative manner.

UCITS 4.3

Undertakings for Collective Investment in Transferable Securities

Trustees - duties and conditions

1. The trustee must ensure that the sale, issue, repurchase, redemption and cancellation of units effected by or on behalf of a unit trust, a common contractual fund or an investment company are carried out in accordance with the Regulations and in accordance with the trust deed, the deed of constitution or memorandum and articles of association.

2. The trustee must ensure that the value of units is calculated in accordance with the Regulations and the trust deed of a unit trust, the deed of constitution of a common contractual fund and the articles of association of an investment company.

3. The trustee must carry out the instructions of the management company unless they conflict with the Regulations, the trust deed or the deed of constitution. The trustee must carry out the instructions of the investment company unless they conflict with the Regulations or the memorandum and articles of association.

4. The trustee must ensure that in transactions involving a unit trust's, a common contractual fund's or an investment company's assets, any consideration is remitted to it within time limits which are acceptable market practice in the context of a particular transaction.

5. The trustee must ensure that a unit trust's, a common contractual fund's or an investment company's income is applied in accordance with the Regulations, the trust deed, the deed of constitution or memorandum and articles of association.

6. The trustee must enquire into the conduct of the management company or the investment company in each annual accounting period and report thereon to the unit holders. The trustee's report shall be delivered to the management company or investment company in good time to enable the management company or investment company to include a copy of the report in its Annual Report. The trustee's Report shall state whether in the trustee's opinion the unit trust, the common contractual fund or the investment company has been managed in that period:

   (i) in accordance with the limitations imposed on the investment and borrowing powers of the manager or investment company and trustee by the trust deed, the deed of constitution or memorandum and articles of association and the Regulations; and

   (ii) otherwise in accordance with the provisions of the trust deed, the deed of constitution or memorandum and articles of association and the Regulations.

   If the management company or investment company does not comply with (i) or (ii) above, the trustee must state why this is the case and outline the steps which the trustee has taken to rectify the situation.

7. The trustee must notify the Financial Regulator promptly of any material breach of the Regulations, conditions imposed by the Financial Regulator or provisions of the prospectus with regard to a unit trust, common contractual fund or investment company.

8. The duties provided for in paragraphs 1 - 7 may not be delegated by the trustee to a third party. These duties must be carried out in the State.

9. A trustee company may not also act as a management company or investment company.

10. The board of directors of the trustee acting for a UCITS must not have directors in common with the board of directors of the management company/administration company or the investment company.

11. The management company or investment company and the trustee must act independently and solely in the interests of the unitholders.

12. A trustee must send to the Financial Regulator any information and returns which are specified by the Financial Regulator.

13. The trustee of a unit trust must create or cancel units in accordance with the conditions laid down in the trust deed and on receipt of a written instruction from the management company. The trustee may refuse to create or cancel units if he is of the opinion that it is not in the interest of participants for such units to be created or cancelled. The trustee is not permitted to create or cancel units during any period in which redemption of units is suspended.

14. The trustee may issue registered certificates or bearer securities, representing one or more portions of the UCITS, or alternatively, in accordance with the provisions of the trust deed, the deed of constitution or the articles of association, written confirmations of entry in the register of units or fractions of units without limitation as to the splitting-up of units.

15. The trustee will be liable to the management company or investment company and the unit-holders for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of them. Liability to unit-holders may be invoked either directly or indirectly through the management company, depending on the legal nature of the relationship between the trustee, the management company and the unit-holders.

16. The liability of a trustee will not be affected by the fact that it has entrusted to a third party some or all of the assets in its safe-keeping.

    Note: The Financial Regulator considers that in order for the trustee to discharge its responsibility under the Regulations, the trustee must exercise care and diligence in choosing and appointing a third party as a safe-keeping agent so as to ensure that the third party has and maintains the expertise, competence and standing appropriate to discharge the responsibilities concerned. The trustee must maintain an appropriate level of supervision over the safe-keeping agent and make appropriate inquiries from time to

time to confirm that the obligations of the agent continue to be competently discharged. This does not purport to be a legal interpretation of these Regulations and the corresponding provisions of the UCITS Directive.

17. The trustee must:

(i) ensure that there is legal separation of non-cash assets held under custody and that such assets are held on a fiduciary basis. In jurisdictions where fiduciary duties are not recognised the trustee must ensure that the legal entitlement of the UCITS to the assets is assured;

(ii) maintain appropriate internal control systems to ensure that records clearly identify the nature and amount of all assets under custody, the ownership of each asset and where documents of title to that asset are located.

Where the trustee utilises the services of a sub-custodian the trustee must ensure that these standards are maintained by the sub-custodian.

18. Where the trustee utilises the services of a global sub-custodian the trustee must ensure that:

(i) the non-cash assets are held on a fiduciary basis by the global sub-custodian's network of custodial agents. This should be confirmed by those agents on a regular basis. In jurisdictions where fiduciary duties are not recognised the trustee must ensure that the legal entitlement of the scheme to the assets is assured;

(ii) the trustee must maintain records of the location and amounts of all securities held by each of the custodial agents;

(iii) the relationship between the trustee and the global sub-custodian should be set out in a formal contract between the two entities.

19. A trustee company which is not a credit institution must comply with the following conditions:

(i) The firm must, at all times, maintain a minimum capital requirement equivalent to €125,000 ('financial resources requirement') or one quarter of its preceding year's fixed overheads ('expenditure requirement'), whichever is higher. The firm's minimum capital requirement must be held as eligible assets in a form which is easily accessible and must be free from any liens or charges.

A firm, which is a member of a group, must maintain its minimum capital requirement outside the group. The firm must be in a position to demonstrate its ongoing compliance with this requirement.

The form of any subordinated loan or capital contribution incorporated in the calculation of Financial Resources, (including repayment), is subject to the approval of the Financial Regulator.

Specific details and supplementary guidance in relation to these requirements are contained in the 'Capital Compliance Requirement'. This document, which may be amended from time to time, includes the Compliance with Minimum Capital Requirement Report and forms part of the UCITS Notices.

(ii) Appointments to the office of director or alternate director of the company require the prior approval of the Financial Regulator. Departures from the office of director must be notified to the Financial Regulator immediately.

(iii) A minimum of two directors of the company must be Irish residents.

(iv) Approval of the Financial Regulator is required in respect of any proposed change in ownership or in significant shareholdings. A significant shareholding for the purpose of this condition is defined as a shareholding of 10 per cent or more in the company.

(v) Half-yearly financial and annual audited accounts of the company must be submitted to the Financial Regulator. The half-yearly accounts must be submitted within two months and the annual accounts within four months of the relevant reporting period. Annual audited accounts of the corporate shareholder(s) of the company must also be submitted.

20. The trustee is obliged to satisfy the Financial Regulator on a continuing basis that it has sufficient management resources to effectively conduct its business. In addition, its directors and managers should be persons of integrity and have an appropriate level of knowledge and experience. The trustee must organise and control its internal affairs in a reasonable manner, with proper records and adequate arrangements for ensuring that employees are suitable, adequately trained and properly supervised. There should be well defined procedures in place to ensure compliance with regulations and the trustee should deal with regulators in an open and co-operative manner.

21. Review meetings will be held by the Financial Regulator with the trustee as required by the Financial Regulator. A trustee is required, for the purposes of such meetings, to supply any additional material as may be specified by the

Financial Regulator, including internal auditors' reports, operating procedures and management letters issued by the trustee's auditors.

22. The Financial Regulator requires a UCITS to be audited at the date of replacement of a trustee. In addition the Financial Regulator requires confirmation from both the retiring trustee and new trustee that they are satisfied with the transfer of assets.

23. Trustees providing trustee/custodial services to collective investment schemes not authorised by the Financial Regulator must be satisfied that the prospectus issued by the scheme does not does not imply, in any way, that the scheme is regulated by the Financial Regulator.

The firms is required to submit a quarterly return containing the following aggregate information for all schemes to which services are provided, within each base currency category:

- domicile of the schemes
- number of schemes
- number of unitholders
- total net asset value.

Information is not required in respect of those schemes, which are included in the return prepared by an authorised firm in accordance with paragraph 41 of Notice UCITS 2.

The Financial Regulator may request information on non-Irish schemes in order to effectively perform its role as supervisor of Irish service providers. Such requests do not imply any regulatory or supervisory role for the Financial Regulator in respect of non-Irish schemes.

UCITS 5.2

Undertakings for Collective Investment in Transferable Securities

General conditions

1. The trust deed in the case of a unit trust, the deed of constitution in the case of a common contractual fund and the articles of association in the case of an investment company shall lay down the conditions for the creation and cancellation of units.

2. Unless otherwise provided for in the trust deed, the deed of constitution or the articles of association, the value of the assets of a UCITS shall be based, in the case of securities traded on a stock exchange or on a regulated market, on the last known stock exchange or market quotation unless such quotation is not representative. For securities not so quoted and for securities which are so quoted but for which the latest quotation is not representative, the value shall be based on probable realisation value which must be estimated with care and in good faith. Financial derivative instruments shall be valued by a method clearly defined in the trust deed, the deed of constitution or the articles of association.

3. The assets of a UCITS may only be purchased and sold at prices which are in conformity with the criteria set out in paragraph 2.

4. Units of a UCITS shall be issued or sold at a price arrived at by dividing the net asset value of the UCITS by the number of units outstanding; such price may be increased by duties and charges. The prospectus must disclose the charges relating to the sale or issue of units.

   Units may not be issued, or if issued must be cancelled, unless the equivalent of the net issue price is paid into the assets of the UCITS within a reasonable time, which is specified in the prospectus. This shall not preclude the distribution of bonus units.

5. Units shall be redeemed or repurchased at a price arrived at by dividing the net asset value of the UCITS by the number of units outstanding; such price may be decreased by duties and charges. The prospectus must disclose the charges relating to the redemption or repurchase of units. The maximum charge relating to the redemption or repurchase of units as provided for in the trust deed, the deed of constitution or the articles of association may not be increased without approval on the basis of a majority of votes cast at general meeting. In the event of an increase in the redemption or repurchase charge a reasonable notification period must be provided by the UCITS to enable unitholders redeem their units prior to the implementation of the increase.

   The prospectus must disclose the period within which redemption proceeds will normally be paid or discharged to investors.

6. The trust deed, the deed of constitution or the articles of association shall determine the frequency of the calculation of the issue and repurchase prices. These prices must be made available with similar frequency.

7. The management company or the investment company or the trustee shall issue registered certificates or bearer securities, representing one or more portions of the UCITS which it manages, or alternatively, in accordance with the provisions of the trust deed, the deed of constitution or the articles of association, written confirmation of entry in the register of units or fractions of units without limitation as to the splitting of units.

   Rights attaching to fractions of units are exercised in proportion to the fraction of a unit held except for voting rights which can only be exercised by whole units.

   All certificates and bearer securities must be signed by the management company or the investment company and by the trustee. Such signatures may be reproduced mechanically.

8. The trust deed shall prescribe the remuneration and the expenditure which the management company and trustee are empowered to charge to a unit trust, the

method of calculation of such remuneration and the costs to be borne by the unit trust.

The deed of constitution shall prescribe the remuneration and the expenditure which the management company is empowered to charge to a common contractual fund, the method of calculation of such remuneration and the costs to be borne by the common contractual fund.

The articles of association shall prescribe the nature of the costs to be borne by the investment company.

The maximum annual fee[1] charged by a management company of a unit trust, a common contractual fund or an investment company as provided for in the trust deed, deed of constitution or management agreement may not be increased without approval on the basis of a majority of votes cast at general meeting. In the event of an increase in the annual fee a reasonable notification period must be provided by the UCITS to enable unitholders redeem their units prior to the implementation of the increase. The provisions of this paragraph are also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the UCITS.

9. The trust deed, the deed of constitution or the articles of association shall lay down the conditions and manner of application of income.

10. UCITS may not grant loans or act as a guarantor on behalf of third parties. This is without prejudice to the right of a UCITS to acquire debt securities. It will not prevent UCITS from acquiring transferable securities, money market instruments, CIS or financial derivative instruments, which are not fully paid.

11. A change to the investment objectives, or a material change to the investment policies of a UCITS, as disclosed in the prospectus, may not be effected without the prior written approval of all unitholders or without approval on the basis of a

---

[1] The annual fee includes any performance related fee charged by the management company or by the investment manager.

majority of votes cast at general meeting. "Material" shall be taken to mean, although not exclusively:

"*changes which would significantly alter the asset type, credit quality, borrowing limits or risk profile of the UCITS"*.

In the event of a change of investment objectives and/or investment policy, on the basis of a majority of votes cast at a general meeting, a reasonable notification period must be provided by the UCITS to enable unitholders redeem their units prior to implementation of these changes.

12. Where managers or administrators of UCITS enter into soft commission arrangements they must ensure that:

(i) the broker or counterparty to the arrangement has agreed to provide best execution to the UCITS;

(ii) benefits provided under the arrangement must be those which assist in the provision of investment services to the UCITS;

(iii) there is adequate disclosure in the prospectus and in the periodic reports issued by the UCITS.

UCITS 6.4

Undertakings for Collective Investment in Transferable Securities

Prospectus

Publication

1. A UCITS must publish

   - a simplified prospectus and
   - a full prospectus,

   both of which must be dated and the essential elements of which must be kept up to date.

2. The simplified prospectus must be offered to investors free of charge before the conclusion of a contract. The full prospectus must be supplied to investors free of charge on request.

3. Both the simplified and the full prospectuses must contain sufficient information for investors to make an informed judgement of the investment proposed to them and in particular of the risks attached to that investment. Moreover the full prospectus must include a clear and easily understandable explanation of the UCITS risk profile.

4. The simplified prospectus may be attached to the full prospectus as a removable part of it.

5. Material changes to the content of the simplified and the full prospectuses must be notified to unitholders in the subsequent periodic report.

6. Both the simplified and the full prospectuses may be translated into other languages provided that any such translations shall only contain the same

information and shall have the same meaning as in the prospectuses submitted to the Financial Regulator.

Advertising

7. All publicity comprising an invitation to purchase the units of a UCITS must indicate that a simplified prospectus and full prospectus exist and the places where these may be obtained or how the public may have access to them.

8. The name of the UCITS and its regulatory status must be clearly shown in the advertisement.

9. Advertising must not contain information which is false or misleading or presented in a manner which is deceptive. Advertising should refer to the simplified and full prospectuses issued by the UCITS and must not be inconsistent with these.

10. UCITS marketing their units in Ireland or marketing their units in jurisdictions with no statutory regulation of marketing must comply with the following advertising standards:

    (i) The design and presentation of an advertisement should allow it to be easily and clearly understood. Where footnotes are used they should be of sufficient size and prominence to be easily legible; where appropriate they should be linked to the relevant part of the main copy.

    (ii) An advertisement should always be designed and presented so that any person who looks at it can see immediately that it is an advertisement.

    (iii) Any statements made or risk warnings given in an advertisement must not be obscured or disguised in any way by the content, design or format of the advertisement.

    (iv) An advertisement should not mislead investors about any matter likely to influence their attitudes to the investment either by inaccuracy, ambiguity, exaggeration, omission or otherwise.

    (v) All advertisements should be prepared with care and with the conscious aim of ensuring that potential investors fully grasp the nature of any

commitment into which they may enter. The fact that the complexities of finance may well be beyond many of those to whom the opportunity being offered will appeal should be taken into account and accordingly advertisements must not take advantage of inexperience or credulity.

(vi) When an advertisement contains any forecast or projection, whether of a specific growth rate or of a specific return or rate of return it should make clear the basis upon which that forecast or projection is made, explaining for instance

- whether reinvestment of income is assumed
- whether account has been taken of the incidence of any taxes or duties and, if so, how
- whether the forecast or projected rate of return will be subject to any deductions other than upon premature realisation or otherwise.

(vii) Advertisements leading to the employment of money in anything the value of which is not guaranteed should clearly indicate that the value of the investment can go down as well as up and that the return upon the investment will therefore necessarily be variable.

(viii) An advertisement must not describe an investment as guaranteed or partially guaranteed unless there is a legally enforceable agreement with a third party who undertakes, in the case of a full guarantee to meet, in full, an investor's claim under the guarantee, or in the case of a partial guarantee to meet, to whatever extent is stated in the advertisement, the investor's claim under the guarantee. Where values are guaranteed sufficient detail should be included to give the reader a fair view of the nature of the guarantee.

(ix) All advertisements making claims, whether specific or not, as to anticipated growth in value or rate of return should include a note, to be given due prominence, to the effect, as appropriate, that neither past experience nor the current situation are necessarily accurate guides to the future.

(x) Any advertisement which contains information on past performance must also contain the following warning:

"Past performance may not be a reliable guide to future performance".

(xi) When any advertisement quotes past experience in support of a forecast or projected growth in the value or rate of return it should not mislead in relation to present prospects and should indicate the circumstances in which and the period over which such experience has been gained in a way that is fair and representative.

(xii) When investors are offered the facility of planned withdrawal from capital as an income equivalent (e.g. by cashing in units of the UCITS) the advertiser should ensure that the effect of such withdrawals upon the investment is clearly explained.

(xiii) When claims to investment skill are based upon an asserted increase in the value of particular items purchased or recommended for purchase by the advertiser in the past he should be adequately able to substantiate that the purchase or recommendation upon which his assertion is based was made at the time claimed and that the present value asserted for the investment corresponds to the price actually obtained for identical items when sold in the open market in the period immediately preceding the appearance of the advertisement. No claim to an increase in the value of investments or collectibles should be based upon the performance within a given market of selected items only unless substantiation for the claim can be provided in the form set out above.

(xiv) Phrases such as tax-free, tax-paid should not be used

- unless it is made clear which particular tax(es) and/or duties are involved and
- the advertiser states as clearly as possible what liabilities may arise and by whom they will be paid.

(xv) When the achievement or maintenance of the return claimed or offered for a given investment is in any way dependent upon the assumed effects of tax or duty this should be clearly explained and the advertisement should make it clear that no undertaking can be given that the fiscal system may not be revised with consequent effect upon the return offered.

(xvi) Where an advertisement relates to a high volatility UCITS it must state that the investment may be subject to sudden and large falls in value, and, if it is the case, that the investor could lose the total value of the initial investment.

(xvii) Where a UCITS is described as being likely to yield income or as being suitable for an investor particularly seeking income from the investment, and where the income from the UCITS can fluctuate, the advertisement must contain the following warning:

"*Income may fluctuate in accordance with market conditions and taxation arrangements".*

(xviii) Where a UCITS is denominated in a currency other than that of the country in which the advertisement is issued, the advertisement must contain the following warning:

"Changes in exchange rates may have an adverse effect on the value price or income of the product".

(xix) An advertisement should, where relevant,

- state that the difference at any one time between the sale and repurchase price of units in the UCITS means that the investment should be viewed as medium to long term;
- refer to the impact of a redemption charge.

Contents

11. **The simplified prospectus must be prepared in accordance with Guidance Note 1/05 and must contain the information set out below:**

(A) Brief presentation of the UCITS

(i) Form in law

(ii) Date of authorisation and date of incorporation where relevant

(iii) Details of sub-funds in the case of umbrella UCITS

(iv) Name and address of the management company, if applicable

(v) The expected period of existence, if applicable

(vi) Name and address of the trustee

(vii) Name and address of the auditors

(viii) Identity of the financial group promoting the UCITS

(B) Investment information

(i) Short definition of the UCITS' objectives

(ii) A description of the UCITS' investment policy and a brief assessment of its risk profile

(iii) Historical performance, if applicable, and a warning that this is not an indicator of future performance

(iv) Profile of the typical investor that the UCITS is designed for

(C) Economic information

(i) Tax regime

(ii) Subscription and redemption fees

(D) Commercial information

(i) How to buy units

(ii) How to sell units

(iii) How to switch between sub-funds in the case of umbrella UCITS

(iv) Distribution policy and dates of distributions if applicable

(v) How unit prices are published or made available

(E) Additional information

(i) Statement that, on request, the full prospectus, the annual and half-yearly reports may be obtained

(ii) Name of the Financial Regulator

(iii) Details of a contact point where additional information may be obtained if needed

(iv) Date of publication of the full prospectus

12. **The full prospectus must contain at least the following information:**

(A) <u>Information concerning the UCITS</u>

(i) Name, form in law, and, if applicable, registered office and head office if different from the registered office.

(ii) Identity and brief details of the financial group promoting the UCITS.

(iii) Date of establishment or incorporation of the UCITS and indication of duration, if limited.

(iv) Statement of the place where the trust deed, the deed of constitution or the articles of association, if not annexed, and periodic reports may be obtained, free of charge.

(v) Brief indications relevant to unitholders of the tax system applicable to the UCITS. Details of whether deductions are made at source from the income and capital gains paid by the UCITS to unitholders.

(vi) Accounting and distribution dates. The time limit (if any) after which entitlement to dividend lapses and procedure in this event.

(vii) Name and address of auditor.

(viii) In the case of investment companies:

- names and positions in the company of the directors. Their experience both current and past, which is relevant to the UCITS. Details of their main activities outside the company where these are of significance with respect to that company.
- authorised share capital.

(ix) Details of the types and main characteristics of the units and in particular:

- the nature of the right (real, personal or other) represented by the unit;
- original securities or certificates providing evidence of title, entry in a register or in an account;
- characteristics of the units, registered or bearer. Indication of any denominations which may be provided for;
- indication of unitholders' voting rights;

- circumstances in which winding-up of the UCITS can be decided on and winding-up procedure, in particular as regards the rights of unitholders.

(x) Where applicable, indication of stock exchanges or markets where the units of the UCITS are listed or dealt in.

(xi) Procedures and conditions of issue and sale of units.

(xii) Procedures and conditions for repurchase or redemption of units, including the period within which redemption proceeds will normally be paid or discharged to investors. Circumstances in which repurchase or redemption may be temporarily suspended.

(xiii) Description of rules for determining and applying income.

(xiv) Information concerning the arrangements for making payments to unit-holders, purchasing or redeeming units and making available information concerning the UCITS.

(xv) Description of the UCITS investment objectives (e.g. capital growth or income) and investment policy (e.g. specialisation in geographical or industrial sectors). The description must be comprehensive and accurate, readily comprehensible to investors and sufficient to enable investors make an informed judgement on the investment proposed to them. The description should include any limitations on that investment policy, and borrowing powers which may be used in the management of the UCITS.

(xvi) Description of the UCITS intentions regarding techniques and instruments which may be used for the purposes of efficient portfolio management, in accordance with Notice UCITS 12 and Guidance Note 3/03. This should include reference to the techniques and instruments which the UCITS can utilise and the inherent risks.

(xvii) A statement that the UCITS will, on request, provide supplementary information to unitholders relating to the risk management methods employed, including the quantitative limits that are applied and any recent developments in the risk and yield characteristics of the main categories of investments.

(xvii) Rules for the valuation of assets.

(xix) Determination of the sale or issue price and the repurchase or redemption price of units, in particular:

- the method and frequency of the calculation of those prices;
- information concerning the charges relating to the sale or issue and the repurchase, or redemption of units;
- the means, places and frequency of the publication of those prices.

(xx) In the case of umbrella UCITS:
- the charges, if any, applicable to switching of investments from one sub-fund to another;
- the extent to which one sub-fund can invest in another and the conditions which apply to such investments.

(xxi) The manner, amount and calculation of remuneration payable by the UCITS to the management company, directors of the investment company, the trustee or third parties, and reimbursement of costs by the scheme to the management company, directors of the investment company, the trustee or to third parties. All other costs and expenses which will be borne by the UCITS, including costs of establishment.

All information on remuneration, costs and expenses to be borne by the UCITS must be contained in the same section of the prospectus and in a form that can be easily understood and analysed.

(xxii) Investment companies within the meaning of Regulation 41 (1) shall also indicate;

- the method and frequency of calculation of the net asset value of units;
- the means, place and frequency of the publication of the value;
- the stock exchange in the country of marketing the price on which determines the price of transactions effected outside stock exchanges in that country.

(B) <u>Information concerning a management company</u>

(i) Name, form in law, registered office and head office if different from the registered office. If the company is part of a group, the name of that group and the ultimate parent. Date of incorporation of the company and indication of duration if limited.

(ii) If the company manages other collective investment schemes, indication of those other schemes.

(iii) Names and positions in the company of the members of the administrative, management and supervisory bodies. Their experience, both current and past, which is relevant to the scheme. Details of their main activities outside the company where those are of significance with respect to that company.

(iv) Amount of the prescribed capital with an indication of the capital paid-up.

(C) <u>Information concerning a trustee</u>

(i) Name, form in law, registered office and head office if different from the registered office.

(ii) Main activity.

(D) Information concerning investment advisers

Information concerning the advisory firms or external investment advisers who give advice under contract which is paid for out of the assets of the UCITS.

(i) Name of the firm or adviser.

(ii) Material provisions of the contract with the management company or investment company which may be relevant to the unitholders, excluding those relating to remuneration.

(iii) Other significant activities.

(E) General information

(i) The prospectus must state that the authorisation of the UCITS is not an endorsement or guarantee of the scheme by the Financial Regulator nor is the Financial Regulator responsible for the contents of the prospectus and must incorporate the following statement:

"The authorisation of this scheme by the Financial Regulator shall not constitute a warranty as to the performance of the scheme and the Financial Regulator shall not be liable for the performance or default of the scheme."

(ii) The prospectus must identify, and describe in a comprehensive manner, the risks applicable to investing in that particular UCITS. In particular the prospectus should make reference to:

(a) the fact that prices of units may fall as well as rise;
(b) the desirability of consulting a stockbroker or financial adviser about the contents of the prospectus; and
(c) where relevant, the fact that the difference at any one time between the sale and repurchase price of units in the UCITS means that the investment should be viewed as medium to long term.

(iii) UCITS with investment objectives which involve a higher than average degree of risk (e.g. UCITS investing in emerging markets or warrant schemes) must recommend that an investment in the UCITS should not constitute a substantial proportion of an investment portfolio and may not be appropriate for all investors. This warning must be inserted and highlighted at the beginning of the prospectus and the prospectus must contain a full description of the risks involved.

(iv) Details of the persons who accept responsibility for information contained in the prospectus.

(v) In the event that a stated minimum viable size is not reached within a specified period the prospectus must state that the UCITS will return any subscriptions to the unitholders and apply to the Financial Regulator for revocation of its authorisation.

(vi) A description of the potential conflicts of interest which could arise between the management company, investment adviser and the UCITS, with details, where applicable, of how these are going to be resolved.

(vii) A description of soft commission arrangements which may be entered into by a management/administration company of a UCITS.

(viii) The name of any third party which has been contracted by the management company or investment company to carry out its work.

(ix) Material provisions of the contracts between third parties and the management company or investment company which may be relevant to unitholders, excluding those relating to remuneration.

Additional information requirements for specific UCITS

13. Where the net asset value of a UCITS is likely to have a high volatility due to its portfolio composition or the portfolio management techniques that may be used, a prominent statement drawing attention to this characteristic must be included in the full and simplified prospectuses.

14. Both the full and simplified prospectuses must provide additional disclosure if the UCITS falls under the following categories:

UCITS which use financial derivative instruments ("FDI")

A UCITS which may engage in transactions in FDI must include a prominent statement to this effect, which will indicate if FDI may be used for investment purposes and/or solely for the purposes of hedging. This statement must also indicate the expected effect of FDI transactions on the risk profile of the UCITS. A description of the permitted types of FDI and the extent to which the UCITS may be leveraged must be provided.

Where a UCITS will invest principally in FDI, it must insert a warning of this intention at the beginning of the prospectus and any other promotional literature.

Funds of Funds

A UCITS which may invest more than 20% of its assets in other collective investment schemes ("CIS") must include a prominent statement to this effect in the prospectus and in any promotional literature which it issues.

The prospectus must disclose the maximum level of management fees that may be charged to the CIS in which it invests.

Cash/Money Market Funds

A UCITS which may invest substantially in deposits or money market instruments must provide a risk warning drawing attention to the difference between the nature of a deposit and the nature of an investment in the UCITS, with particular reference to the risk that the principal invested in the UCITS is capable of fluctuation.

A UCITS which may invest substantially in deposits with credit institutions must include a prominent statement to this effect in the prospectus and in any promotional literature which it issues.

Index Tracking Funds

A UCITS which replicates a stock or debt securities index must include a prominent statement to this effect in the prospectus and any other promotional literature.

UCITS 7.1

Undertakings for Collective Investment in Transferable Securities

Information to be included in the monthly returns

1. Total gross asset value of the UCITS at end-month.

2. Total net asset value of the UCITS at end-month.

3. Number of units in circulation at end-month.

4. Net asset value per unit at end-month.

5. Net proceeds from the issues of units during month.

6. Payments made for the repurchase of units during month.

7. Net amount from issues and repurchases during month.

This return must be submitted to the Financial Regulator within 10 working days of the end-month to which it refers.

Financial Institutions and Funds Authorisation
Financial Regulator
November 2004

UCITS 8.2

Undertakings for Collective Investment in Transferable Securities

Publication of annual and half-yearly reports

1. A UCITS must publish an annual report for each financial year and a half-yearly report covering the first six months of the financial year.

   Dates for the initial reports issued by a UCITS will be agreed with the Financial Regulator at the time of authorisation.

   The accounting information given in the annual report must be audited by one or more persons empowered to audit accounts in accordance with the Companies Acts. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

2. The annual and half-yearly report must be published within the following time-limits, with effect from the ends of the periods to which they relate:

   (i) four months in the case of the annual report;

   (ii) two months in the case of the half-yearly report.

3. The annual report must contain the information outlined in Appendix A to this notice. The half-yearly report must contain the information outlined in Appendix B to this notice.

4. The annual and half-yearly reports must be sent to the Financial Regulator.

5. The latest annual report and any subsequent half-yearly report published must be offered to investors free of charge before the conclusion of a contract.

6. The annual and half-yearly reports must be available to the public at the places specified in the prospectus.

7. The annual and half-yearly reports shall be supplied to unitholders free of charge on request.

APPENDIX A

Information to be contained in the annual report

The annual report must include the following as well as any significant information which will enable investors to make an informed judgement on the development of the activities of the UCITS and its results.

1. Statement of assets and liabilities or balance sheet to separately show the following:
   - transferable securities;
   - money market instruments;
   - CIS
   - deposits with credit institutions
   - financial derivative instruments
   - other assets;
   - total assets;
   - liabilities;
   - net asset value.

2. Number of units in circulation.

3. Net asset value per unit.

4. Analysis of portfolio, distinguishing between:

   (i) transferable securities and money market instruments admitted to official stock exchange listing or traded on a regulated market;

   (ii) transferable securities and money market instruments other than those referred to in paragraph (i);

   (iii) recently issued transferable securities of the type referred to in Regulation 45(d);

   (iv) UCITS and non-UCITS CIS;

   (v) deposits;

   (vi) financial derivative instruments dealt in on a regulated market;

   (vii) OTC financial derivative instruments;

   and analysed in accordance with the most appropriate criteria in the light of the investment policy of the UCITS (e.g. in accordance with economic,

geographical or currency criteria) as a percentage of net assets; for each of the above investments the proportion it represents of the total assets of the UCITS should be stated.

5. A statement of changes in the composition of the portfolio during the reference period. To ensure that unitholders can identify significant changes in the disposition of the assets of the UCITS only material changes are required to be included in the published statement. These are defined as aggregate purchases of a security exceeding one per cent of the total value of purchases for the period and aggregate disposals greater than one per cent of the total value of sales. At a minimum the largest 20 purchases and 20 sales must be given.

6. Statement of the developments concerning the assets of the UCITS during the reference period, including the following:

- income from investments;
- other income;
- management charges;
- trustee's charges;
- other charges and taxes;
- net income;
- distributions and income reinvested;
- changes in capital account;
- appreciation or depreciation of investments;
- any other changes affecting the assets and liabilities of the UCITS;
- A UCITS which invests more than 20% of its assets in other CIS must disclose the management fees charged to the underlying CIS.

7. A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:

- the total net asset value;
- the net asset value per unit.

8. Investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella must be disclosed in accordance with industry adopted standards. The policies adopted to disclose cross-investments must be explained in a note to the accounts.

9. A general description of the use of financial derivative instruments, stocklending and repurchase/reverse repurchase agreements during the reporting period and the resulting amount of commitments. This description should identify the types of financial derivative instruments concerned, including OTC derivatives. It should indicate the purposes behind the use of the various instruments together with the attendant risks to allow unitholders assess their nature.

   Open financial derivative positions at reporting date should be marked to market and specifically identified in the portfolio statement. Information on open option positions should include the strike price, final exercise date and an indication whether such positions are covered or not. Counterparties to OTC derivatives should also be identified.

   Treatment of realised and unrealised gains or losses arising from financial derivative transactions and from the use of stocklending/repurchase/reverse repurchase agreements should be explained in a note to the accounts.

   UCITS which have engaged in stock-lending should disclose, in a note to the accounts, the aggregate value of securities on loan at reporting date, together with the value of collateral held by the UCITS in respect of these securities. Where a UCITS has entered into a stocklending programme in accordance with paragraph 11 of Notice UCITS 12, the name of the International Central Securities Depositary System must be disclosed.

10. Report on the activities of the financial year.

11. Trustee's report.

12. A description of soft commission arrangements affecting the UCITS during the period.

13. A description of any material changes in the prospectus during the reporting period.

14. A list of exchange rates used in the report.

15. Auditor’s report.

APPENDIX B

Information to be contained in the half-yearly report

1. Statement of assets and liabilities or balance sheet to separately show the following:

   - transferable securities;
   - money market instruments;
   - CIS;
   - deposits with credit institutions;
   - financial derivative instruments;
   - other assets;
   - total assets;
   - liabilities;
   - net asset value.

2. Number of units in circulation.

3. Net asset value per unit.

4. Analysis of portfolio, distinguishing between:

   (i) transferable securities and money market instruments admitted to official stock exchange listing or traded on a regulated market;

   (ii) transferable securities and money market instruments other than those referred to in paragraph (i);

   (iii) recently issued transferable securities of the type referred to in Regulation 45(d);

   (iv) CIS;

   (v) deposits;

   (vi) financial derivative instruments dealt in on a regulated market;

   (vii) OTC financial derivative instruments;

   and analysed in accordance with the most appropriate criteria in the light of the investment policy of the UCITS (e.g. in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the above investments the proportion it represents of the total assets of the UCITS should be stated (as per Annual Report).

5. A statement of changes in the composition of the portfolio during the reference period. To ensure that unitholders can identify significant changes in the disposition of the assets of the UCITS only material changes are required to be included in the published statement. These are defined as aggregate purchases of a security exceeding one per cent of the total value of purchases for the period and aggregate disposals greater than one per cent of the total value of sales. At a minimum the largest 20 purchases and 20 sales must be given.

6. A description of soft commission arrangements affecting the UCITS during the reference period.

7. Investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella must be disclosed in accordance with industry adopted standards. The policies adopted to disclose cross-investments must be explained in a note to the accounts.

8. A general description of the use of financial derivative instruments, stocklending and repurchase/reverse repurchase agreements during the reporting period and the resulting amount of commitments. This description should identify the types of financial derivative instruments concerned, including OTC derivatives. It should indicate the purposes behind the use of the various instruments together with the attendant risks to allow unitholders assess their nature.

   Open financial derivative positions at reporting date should be marked to market and specifically identified in the portfolio statement. Information on open option positions should include the strike price, final exercise date and an indication whether such positions are covered or not. Counterparties to OTC derivatives should also be identified.

   Treatment of realised and unrealised gains or losses arising from financial derivative transactions and from the use of stocklending/repurchase/reverse repurchase agreements should be explained in a note to the accounts.

UCITS which have engaged in stock-lending should disclose, in a note to the accounts, the aggregate value of securities on loan at reporting date, together with the value of collateral held by the UCITS in respect of these securities. Where a UCITS has entered into a stocklending programme in accordance with paragraph 11 of Notice UCITS 12, the name of the International Central Securities Depositary System must be disclosed.

9. A description of any material changes in the prospectus during the reporting period.

10. A list of exchange rates used in the report.

11. Where a UCITS has paid or proposes to pay an interim dividend, the half-yearly report must indicate the results after tax for the half-year concerned and the interim dividend paid or proposed.

UCITS 9.3

Undertakings for Collective Investment in Transferable Securities

Eligible Assets and Investment Restrictions

This Notice should be read in conjunction with the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003. In the event of any difference or discrepancy, the provisions of the Regulations will prevail.

Eligible Assets

1. Investments of a UCITS are confined to:

   (i) transferable securities and money market instruments which are either admitted to official listing on a stock exchange in a Member State or non-Member State or which are dealt on a market which is regulated, operating regularly, recognised and open to the public in a Member State or non-Member State;

   (ii) recently issued transferable securities which will be admitted to official listing on a stock exchange or other market (as described above) within a year. However, a UCITS may invest no more than 10 per cent of its assets in these securities. This restriction will not apply in relation to investment by a UCITS in certain US securities known as Rule 144A securities provided that:
   - the securities are issued with an undertaking to register with the US Securities and Exchanges Commission within one year of issue; and
   - the securities are not illiquid securities i.e. they may be realised by the UCITS within seven days at the price, or approximately at the price, at which they are valued by the UCITS.

   The trust deed, deed of constitution or articles of association must list all of the stock exchanges and markets on which the UCITS may invest. Restrictions in respect of individual stock exchanges and markets may be imposed by the Financial Regulator on a case-by-case basis.

   (iii) money market instruments, other than those dealt in on a regulated market;

(iv) units of UCITS;

(v) units of non-UCITS CIS as prescribed in paragraph 1.3

(vi) deposits with credit institutions as prescribed in paragraph 1.4;

(vii) financial derivative instruments as prescribed in Notice UCITS 10.

1.1 Transferable Securities

This term means:

- shares in companies and other securities equivalent to shares in companies ('shares'),
- bonds and other forms of securitised debt ('debt securities'),
- other negotiable securities which carry the right to acquire any such transferable securities by subscription or exchange,

other than the techniques and instruments referred to in Regulation 48A, and which fulfil the criteria set out below:

(a) the potential loss which the UCITS may incur with respect to holding those instruments is limited to the amount paid for them[1];

(b) their liquidity does not compromise the ability of the UCITS to comply with Regulation 59;

(c) reliable valuation is available for them as follows:

(i) in the case of securities admitted to or dealt in on a regulated market as referred to in subparagraphs (a) to (d) of Regulation 45, in the form of accurate, reliable and regular prices which are either market prices or prices made available by valuation systems independent from issuers;

(ii) in the case of other securities as referred to in Regulation 46(1), in the form of a valuation on a periodic basis which is derived from information from the issuer of the security or from competent investment research;

(d) appropriate information is available for them as follows:

(i) in the case of securities admitted to or dealt in on a regulated market as referred to in subparagraphs (a) to (d) of Regulation 45, in the form of regular, accurate and comprehensive information to the market on the security or, where relevant, on the portfolio of the security;

(ii) in the case of other securities as referred to in Regulation 46(1), in the form of regular and accurate information to the UCITS on the security or, where relevant, on the portfolio of the security;

---

[1] A partly paid security must not expose the UCITS to loss beyond the amount to be paid for it.

(e) they are negotiable;

(f) their acquisition is consistent with the investment objectives or the investment policy, or both, of the UCITS;

(g) their risks and their contribution to the overall risk profile of the portfolio are adequately captured by the risk management process of the UCITS which must be assessed on an on-going basis.

For the purposes of subparagraphs (b) and (e), and unless there is information available to the UCITS that would lead to a different determination, financial instruments which are admitted or dealt in on a regulated market in accordance with Regulation 45 shall be presumed not to compromise the ability of the UCITS to comply with Regulation 59 and shall also be presumed to be negotiable.

For the purposes of subparagraph (b) above, where information is available to the UCITS that would lead it to determine that a transferable security could compromise the ability of the UCITS to comply with Regulation 59, the UCITS must assess its liquidity risk.

The liquidity risk is a factor that the UCITS must consider when investing in any financial instrument in order to be compliant with the portfolio liquidity requirement to the extent required by Regulation 59. In taking this prudent approach, the following are examples of the matters a UCITS may need to consider:

- the volume and turnover in the transferable security;
- if price is determined by supply and demand in the market, the issue size, and the portion of the issue that the asset manager plans to buy; also evaluation of the opportunity and timeframe to buy or sell;
- where necessary, an independent analysis of bid and offer prices over a period of time may indicate the relative liquidity and marketability of the instrument, as may the comparability of available prices;
- in assessing the quality of secondary market activity in a transferable security, analysis of the quality and number of intermediaries and market makers dealing in the transferable security concerned should be considered.

In the case of transferable securities which are not admitted to trading on a regulated market as defined in Regulation 45, liquidity cannot automatically be

presumed. The UCITS will therefore need to assess the liquidity of such securities where this is necessary to meet the requirements of Regulation 59.

If the security is assessed as insufficiently liquid to meet foreseeable redemption requests, the security must only be bought or held if there are sufficiently liquid securities in the portfolio so as to be able to meet the requirements of Regulation 59.

In the case of transferable securities which are not admitted to trading on a regulated market as defined in Regulation 45 negotiability cannot automatically be presumed. The UCITS must assess the negotiability of securities held in the portfolio, with a view to ensuring compliance with the requirements of Regulation 59.

1.1.1 Closed Ended Funds

"Transferable securities" include:

(a) Units in closed-ended funds, constituted as investment companies or as unit trusts, which fulfil the following criteria:

(i) they fulfil the criteria set out in paragraph 1.1;

(ii) they are subject to corporate governance mechanisms applied to companies;

(iii) where asset management activity is carried out by another entity on behalf of the closed ended fund, that entity is subject to national regulation for the purpose of investor protection.

(b) units in closed-ended funds constituted under the law of contract which fulfil the following criteria:

(i) they fulfil the criteria set out in paragraph 1.1;

(ii) they are subject to corporate governance mechanisms equivalent to those applied to companies as referred to in subparagraph 1.1.1 (a)(ii);

(iii) they are managed by an entity which is subject to national regulation for the purpose of investor protection.

In assessing whether the corporate governance mechanisms for closed ended funds in contractual form are equivalent to investment companies, the following factors are indicators which can be used as a guidance:

Unit holders' rights. The contract on which the fund is based should provide for:

(i) right to vote of the unit holders in the essential decision making processes of the fund (including appointment and removal of asset management company, amendment to the contract which set up the fund, modification of investment policy, merger, liquidation);

(ii) right to control the investment policy of the fund through appropriate mechanisms.

The assets of the fund should be separate and distinct from that of the asset manager and the fund must be subject to liquidation rules adequately protecting the unit holders.

A UCITS may not make investment in closed ended funds for the purposes of circumventing the investment limits set out in the Regulations.

1.1.2 Structured Financial Instruments

"Transferable securities" include financial instruments which:

(a) fulfil the criteria set out in paragraph 1.1;

(b) are backed by, or linked to the performance of, other assets, which may differ from those referred to in Regulation 45; provided that where a financial instrument covered by this subparagraph contains an embedded derivative component as referred to in Regulation 48B(2)(c), the requirements of Regulations 48A and 48B shall apply to that component.

1.2 Money Market Instruments

This term means instruments normally dealt in on the money market which are liquid, and have a value which can be accurately determined at any time. These shall be understood by a reference to the following paragraphs:

(a) financial instruments which are admitted to trading or dealt in on a regulated market in accordance with subparagraphs (a), (b) and (c) of Regulation 45;

(b) financial instruments which are not admitted to trading.

1.2.1. The reference to money market instruments as instruments normally dealt in on the money market shall be understood as a reference to financial instruments which fulfil one of the following criteria:

(a) they have a maturity at issuance of up to and including 397 days;

(b) they have a residual maturity of up to and including 397 days;

(c) they undergo regular yield adjustments in line with money market conditions at least every 397 days;

(d) their risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity as referred to in subparagraphs (a) or (b), or are subject to a yield adjustment as referred to in subparagraph (c).

1.2.2. The reference to money market instruments as instruments which are liquid shall be understood as a reference to financial instruments which can be sold at limited cost in an adequately short time frame, taking into account the obligation of the UCITS to repurchase or redeem its units at the request of any unit holder.

When assessing the liquidity of a money market instrument, the following cumulative factors have to be taken into account:

<u>At the instrument level:</u>

(i) frequency of trades and quotes for the instrument in question;

(ii) number of dealers willing to purchase and sell the instrument, willingness of the dealers to make a market in the instrument in question, nature of market place trades (times needed to sell the instrument, method for soliciting offers and mechanics of transfer);

(iii) size of issuance/program;

(iv) possibility to repurchase, redeem or sell the money market instrument in a short period (e.g. seven business days), at limited cost, in terms of low fees and bid/offer prices and with very short settlement delay;

<u>At the fund level</u>, the following relevant factors should be considered in order to ensure that any individual money market instrument would not affect the liquidity of the UCITS at the fund level:

(i) unit holder structure and concentration of unit holders of the UCITS;

(ii) purpose of funding of unit holders;

(iii) quality of information on the fund's cash flow patterns;

(iv) prospectuses' guidelines on limiting withdrawals.

The fact that some of these conditions are not fulfilled does not automatically imply that the financial instruments should be considered as non-liquid. These

elements must ensure that UCITS will have sufficient planning in the structuring of the portfolio and in foreseeing cash flows in order to match anticipated cash flows with the selling of appropriately liquid instruments in the portfolio to meet those demands.

1.2.3 The reference to money market instruments as instruments which have a value which can be accurately determined at any time shall be understood as a reference to financial instruments for which accurate and reliable valuations systems, which fulfil the following criteria, are available:

(a) they enable the UCITS to calculate a net asset value in accordance with the value at which the financial instrument held in the portfolio could be exchanged between knowledgeable willing parties in an arm's length transaction;

(b) they are based either on market data or on valuation models including systems based on amortised costs.

With respect to the criterion "value which can be accurately determined at any time", if the UCITS considers that an amortization method can be used to assess the value of a money market instrument, it must ensure that this will not result in a material discrepancy between the value of the money market instrument and the value calculated according to the amortization method as set out in Guidance Note -/08 UCITS: Valuation of assets of money market funds.

1.2.4. The criteria referred to in paragraphs 1.2.2 and 1.2.3 shall be presumed to be fulfilled in the case of financial instruments which are normally dealt in on the money market and which are admitted to, or dealt in on, a regulated market in accordance with subparagraphs (a), (b) or (c) of Regulation 45, unless there is information available to the UCITS that would lead to a different determination. Where the presumption of "liquidity" and "accurate valuation" cannot be relied upon, the money market instrument should be subject to an appropriate assessment by the UCITS.

1.2.5 The reference in subparagraph (h) of Regulation 45 to money market instruments, other than those dealt in on a regulated market, provided that the issue or the issuer is itself regulated for the purpose of protecting investors and

savings, shall be understood as a reference to financial instruments which fulfil the following criteria:

(a) they fulfil one of the criteria set out in paragraph 1.2.1 and all the criteria set out in paragraphs 1.2.2 and 1.2.3;

(b) appropriate information is available for them, including information which allows an appropriate assessment of the credit risks related to the investment in such instruments, taking into account paragraphs 1.2.6, 1.2.7 and 1.2.8 of this definition;

(c) they are freely transferable.

1.2.6 For money market instruments covered by sub-paragraphs (h)(ii) and (h)(iv) of Regulation 45 or for those which are issued by a local or regional authority of a Member State or by a public international body but are not guaranteed by a Member State or, in the case of a federal State which is a Member State, by one of the members making up the federation, appropriate information as referred to in paragraph 1.2.5 (b) shall consist in the following:

(a) information on both the issue or the issuance programme and the legal and financial situation of the issuer prior to the issue of the money market instrument;

(b) updates of the information referred to in subparagraph (a) on an annual basis and whenever a significant event occurs;

(c) the information referred to in subparagraph (a) verified by appropriately qualified third parties not subject to instructions from the issuer. Such third parties should specialise in the verification of legal or financial documentation and be composed of persons meeting professional standards of integrity;

(d) available and reliable statistics on the issue or the issuance programme.

1.2.7. For money market instruments covered by subparagraph (h)(iii) of Regulation 45, appropriate information as referred to in paragraph 1.2.5(b) shall consist of the following:

(a) information on the issue or the issuance programme or on the legal and financial situation of the issuer prior to the issue of the money market instrument;

(b) updates of the information referred to in subparagraph (a) on a regular basis and whenever a significant event occurs;

(c) available and reliable statistics on the issue or the issuance programme or other data enabling an appropriate assessment of the credit risks related to the investment in such instruments.

1.2.8 For all money market instruments covered by subparagraph (h)(i) of Regulation 45, except those referred to in paragraph 1.2.6 of this definition and those issued by the European Central Bank or by a central bank from a Member State, appropriate information as referred to in paragraph 1.2.5(b) shall consist of information on the issue or the issuance programme or on the legal and financial situation of the issuer prior to the issue of the money market instrument.

1.2.9. The reference in subparagraph (h)(iii) of Regulation 45 to an establishment which is subject to and complies with prudential rules considered by the Bank to be at least as stringent as those laid down in a Community Act shall be understood as a reference to an issuer which is subject to and complies with prudential rules and fulfils one of the following criteria:

(a) it is located in the European Economic Area;

(b) it is located in the OECD countries belonging to the Group of Ten;

(c) it has at least investment grade rating;

(d) it can be demonstrated on the basis of an in-depth analysis of the issuer that the prudential rules applicable to that issuer are at least as stringent as those laid down in a Community Act

1.2.10. The reference in subparagraph (h)(iv) of Regulation 45 to securitisation vehicles shall be understood as a reference to structures, whether in corporate, trust or contractual form, set up for the purpose of securitisation operations.

1.2.11. The reference in subparagraph (h)(iv) of Regulation 45 to banking liquidity lines shall be understood as a reference to banking facilities secured by a financial institution which itself complies with the subparagraph (h)(iii) of Regulation 45.

1.3 CIS of the open-ended type

A UCITS may invest in CIS of the open-ended type if the CIS are

(i) CIS within the meaning of Regulation 3(2); and

(ii) prohibited from investing more than 10 per cent of net assets in other open-ended CIS.

1.3.1 Investment in CIS which are not UCITS may not, in aggregate, exceed 30 per cent of the net assets of a UCITS. Acceptable CIS are set down in the Financial Regulator's Guidance Note 2/03.

1.3.2 When a UCITS invests in the units of other CIS that are managed, directly or by delegation, by the same management company or by any other company with which the management company is linked by common management or control, or by a substantial direct or indirect holding, that management company or other company may not charge subscription, conversion or redemption fees on account of the UCITS investment in the units of such other CIS.

1.3.3 Where a commission (including a rebated commission) is received by a manager/investment manager/investment adviser company by virtue of an investment in the units of another CIS, this commission must be paid into the property of the UCITS.

1.4 **Deposits with credit institutions**

A UCITS may invest in deposits provided that they are repayable on demand or have the right to be withdrawn, will mature in no more than 12 months and are made with a credit institution which falls under one of the following categories:

(i) a credit institution authorised in the European Economic Area (EEA) (European Union Member States, Norway, Iceland, Liechtenstein);

(ii) a credit institution authorised within a signatory state, other than a Member State of the EEA, to the Basle Capital Convergence Agreement of July 1988 (Switzerland, Canada, Japan, United States);

(iii) a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia or New Zealand.

1.4.1. A UCITS may hold ancillary liquid assets.

Risk spreading rules

2. A UCITS may invest no more than 10 per cent of its net assets in transferable securities and money market instruments other than those referred to in paragraph 1 above.

3. A UCITS may not invest more than 20 per cent of its net assets in any one CIS. Where the underlying CIS is an umbrella fund, each sub-fund of that umbrella fund may be regarded as if it were a separate CIS for the purposes of this limit. The assets of the CIS in which a UCITS has invested do not have to be taken into account when complying with the investment restrictions in this Notice.

4. A UCITS may invest no more than 10 per cent of its net assets in transferable securities or money market instruments issued by the same body provided that the total value of transferable securities and money market instruments held in issuing bodies in each of which it invests more than 5 per cent, is less than 40 per cent.

5. A UCITS may not invest more than 20 per cent of its net assets in deposits made with the same credit institution.

   Deposits with any one credit institution, other than those specified in paragraph 1.4 (i), (ii) and (iii) above, held as ancillary liquidity, must not exceed 10% of net assets. This limit may be raised to 20% in the case of deposits made with the trustee.

6. The risk exposure of a UCITS to a counterparty to an OTC derivative may not exceed 5% of net asset value. This limit is raised to 10% in the case of credit institutions listed in paragraph 1.4 (i) (ii) and (iii) above.

7. A combination of two or more of the following issued by, or made or undertaken with, the same body may not exceed 20% of the net asset value of a UCITS:

- investments in transferable securities or money market instruments;
- deposits, and/or
- counterparty risk exposures arising from OTC derivatives transactions.

8. The limit of 10 per cent in paragraph 4 above is raised to 25 per cent in the case of bonds that are issued by a credit institution which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders. If a UCITS invests more than 5 per cent of its net assets in these bonds issued by one issuer, the total value of these investments may not exceed 80 per cent of the net asset value of the UCITS.

9. The limit of 10 per cent in paragraph 4 above is raised to 35 per cent if the transferable securities or money market instruments are issued or guaranteed by a Member State or its local authorities or by a non-Member State or public international body of which one or more Member States are members.

10. The transferable securities and money market instruments referred to in paragraphs 8 and 9 shall not be taken into account for the purpose of applying the limit of 40 per cent referred to in paragraph 4.

11. The limits referred to in paragraphs 4, 5, 6, 7, 8 and 9 above may not be combined, so that exposure to a single body shall not exceed 35 per cent of the net assets of a UCITS.

12. Group companies are regarded as a single issuer for the purposes of paragraphs 4 - 9 above. However a limit of 20 per cent of net assets may be applied to investment in transferable securities and money markets instruments within the same group.

13. The Financial Regulator may authorise a UCITS to invest up to 100 per cent of its net assets in different transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member State or public international body of which one or more Member States are

members, provided it is satisfied that unit holders have protection equivalent to that of unit holders in UCITS complying with the limits in paragraphs 4 to 9 above. The following conditions shall apply to such a UCITS:

(i) the UCITS must hold securities from at least 6 different issues with securities from any one issue not exceeding 30 per cent of the net assets of the UCITS;

(ii) the UCITS must specify in its trust deed, deed of constitution or articles of association the names of the States, local authorities or public international bodies issuing or guaranteeing securities in which it intends to invest more than 35 per cent of its net assets;

(iii) the UCITS must specify in its prospectus and promotional literature that the Financial Regulator has granted authorisation for this type of investment and must indicate the States, local authorities and/or public international bodies in which it intends to invest or has invested more than 35 per cent of its net assets.

Index tracking UCITS

14. Notwithstanding the provisions of paragraph 4, a UCITS may, in accordance with its trust deed, deed of constitution or memorandum and articles of association, invest up to 20 per cent of net assets in shares and/or debt securities issued by the same body where the investment policy of the UCITS is to replicate an index. The index must be recognised by the Financial Regulator on the basis that it is:

- sufficiently diversified which shall be understood as a reference to an index which complies with the risk diversification rules set out in Regulation 49A;
- represents an adequate benchmark for the market to which it refers, which shall be understood as a reference to an index whose provider uses a recognised methodology which generally does not result in the exclusion of a major issuer of the market to which it refers; and
- is published in an appropriate manner, which shall be understood as a reference to an index which fulfils the following criteria:
  (i) it is accessible to the public;
  (ii) the index provider is independent from the index-replicating UCITS.

The provisions of (ii) shall not preclude index providers and the UCITS forming part of the same economic group, provided that effective arrangements for the management of conflicts of interest are in place.

15. The limit in paragraph 14 may be raised to 35%, and applied to a single issuer, where this is justified by exceptional market conditions.

16. The reference in paragraph 14 to replication of the composition of a shares or debt securities index shall be understood as replication of the composition of the underlying assets of the index, including the use of derivatives or other techniques and instruments as referred to in Regulation 48A.

General provisions

17. An investment company may acquire real and personal property which is required for the purpose of its business.

18. A UCITS may not acquire either precious metals or certificates representing them. This provision does not prohibit a UCITS from investing in transferable securities or money market instruments issued by a corporation whose main business is concerned with precious metals.

19. An investment company, or management company acting in connection with all of the CIS which it manages, may not acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body.

20. A UCITS may acquire no more than:

    (i) 10 per cent of the non-voting shares of any single issuing body;
    (ii) 10 per cent of the debt securities of any single issuing body;
    (iii) 25 per cent of the units of any single CIS;
    (iv) 10 per cent of the money market instruments of any single issuing body.

NOTE: The limits laid down in (ii), (iii) and (iv) above may be disregarded at the time of acquisition if at that time the gross amount of the debt securities or of the money market instruments, or the net amount of the securities in issue cannot be calculated.

21. Paragraphs 19 and 20 above shall not be applicable to:

(i) transferable securities and money market instruments issued or guaranteed by a Member State or its local authorities;

(ii) transferable securities and money market instruments issued or guaranteed by a non-Member State;

(iii) transferable securities and money market instruments issued by public international bodies of which one or more Member States are members;

(iv) shares held by a UCITS in the capital of a company incorporated in a non-Member State which invests its assets mainly in the securities of issuing bodies with their registered offices in that State where under the legislation of that State such a holding represents the only way in which the UCITS can invest in the securities of issuing bodies in that State. This waiver is applicable only if in its investment policies the company from the non-Member State complies with the limits set out in paragraphs 3 to 12 and paragraphs 19 to 20 above, and provided that where these limits are exceeded, paragraphs 23 and 24 below are observed;

(v) shares held by an investment company or investment companies in the capital of subsidiary companies carrying on only the business of management, advice or marketing in the country where the subsidiary is located, in regard to the repurchase of units at unit-holders' request exclusively on their behalf.

22. UCITS need not comply with the limits laid down in this Notice when exercising subscription rights attaching to transferable securities or money market instruments which form part of their assets.

23. The Financial Regulator may allow recently authorised UCITS to derogate from the provisions of paragraph 1.3.1 and paragraphs 3 to 15 above for six months following the date of their authorisation, provided they observe the principle of risk spreading.

24. If the limits laid down in paragraph 1.3.1 and paragraphs 3 through 15 above are exceeded for reasons beyond the control of a UCITS, or as a result of the exercise of subscription rights, the UCITS must adopt as a priority objective for its sales transactions the remedying of that situation, taking due account of the interests of its unitholders.

25. Neither an investment company, nor a management company or a trustee acting on behalf of a unit trust or a management company of a common contractual fund, may carry out uncovered sales of:
    - transferable securities;
    - money market instruments[2];
    - units of CIS; or
    - financial derivative instruments.

26. **Risk Management**

    A UCITS must employ a risk management process to monitor, measure and manage the risks attached to the positions and their contribution to the overall risk profile of the portfolio.

[2] Any short selling of money market instruments by UCITS is prohibited.

UCITS 10.4

Undertakings for Collective Investment in Transferable Securities

Financial Derivative Instruments

The provisions of this Notice apply whenever a UCITS proposes to engage in transactions in financial derivative instruments ("FDI") whether transactions are for investment purposes or for the purposes of hedging.

For the purposes of this Notice, "relevant institutions" refers to those institutions specified in sub-paragraphs 1.4 (i), (ii) and (iii) of Notice UCITS 9.

Permitted FDI

1. A UCITS may invest in FDI provided that:

   (i) the relevant reference items or indices, consist of one or more of the following[1]:

   - instruments referred to in paragraph 1 (i) - (vi) of Notice UCITS 9 including financial instruments having one or several characteristics of those assets;
   - financial indices;
   - interest rates;
   - foreign exchange rates;
   - currencies; and

   (ii) the FDI do not expose the UCITS to risks which it could not otherwise assume (e.g. gain exposure to an instrument/issuer/currency to which the UCITS cannot have a direct exposure);

   (iii) the FDI do not cause the UCITS to diverge from its investment objectives; and

   (iv) the reference in 1(i) above to financial indices shall be understood as a reference to indices which fulfil the following criteria and the provisions of Guidance Note 2/07:

   (a) they are sufficiently diversified, in that the following criteria are fulfilled:

[1] FDI on commodities are excluded.

(i) the index is composed in such a way that price movements or trading activities regarding one component do not unduly influence the performance of the whole index;

(ii) where the index is composed of assets referred to in Regulation 45, its composition is at least diversified in accordance with Regulation 49A;

(iii) where the index is composed of assets other than those referred to in Regulation 45, it is diversified in a way which is equivalent to that provided for in Regulation 49A;

(b) they represent an adequate benchmark for the market to which they refer, in that the following criteria are fulfilled:

(i) the index measures the performance of a representative group of underlyings in a relevant and appropriate way;

(ii) the index is revised or rebalanced periodically to ensure that it continues to reflect the markets to which it refers following criteria which are publicly available;

(iii) the underlyings are sufficiently liquid, which allows users to replicate the index, if necessary;

(c) they are published in an appropriate manner, in that the following criteria are fulfilled:

(i) their publication process relies on sound procedures to collect prices and to calculate and to subsequently publish the index value, including pricing procedures for components where a market price is not available;

(ii) material information on matters such as index calculation, rebalancing methodologies, index changes or any operational difficulties in providing timely or accurate information is provided on a wide and timely basis.

Where the composition of assets which are used as underlyings by FDI does not fulfil the criteria set out in (a), (b) or (c) above, those FDI shall, where they comply with the criteria set out in Regulation 45(g), be regarded as financial derivatives on a combination of the assets referred to in Regulation 45(g)(I), excluding financial indices.

2. **Credit Derivatives**

Credit derivatives are permitted where:

(i) they allow the transfer of the credit risk of an asset as referred to in paragraph 1(i) above, independently from the other risks associated with that asset;

(ii) they do not result in the delivery or in the transfer, including in the form of cash, of assets other than those referred to in Regulations 45 and 46;

(iii) they comply with the criteria for OTC derivatives set out in paragraph 4 below;

(iv) their risks are adequately captured by the risk management process of the UCITS, and by its internal control mechanisms in the case of risks of asymmetry of information between the UCITS and the counterparty to the credit derivative resulting from potential access of the counterparty to non-public information on firms the assets of which are used as underlyings by credit derivatives. The UCITS must undertake the risk assessment with the highest care when the counterparty to the FDI is a related party of the UCITS or the credit risk issuer.

3. FDI must be dealt in on a market which is regulated, operating regularly, recognised and open to the public in a Member State or non-Member State. The trust deed, the deed of constitution or the articles of association must list the markets on which the UCITS may invest. Restrictions in respect of individual stock exchanges and markets may be imposed by the Financial Regulator on a case-by-case basis.

4. Notwithstanding paragraph 3, a UCITS may invest in FDI dealt in over-the-counter, "OTC derivatives" provided that:

(i) the counterparty is a credit institution listed in sub-paragraphs 1.4 (i), (ii) or (iii) of Notice UCITS 9 or an investment firm, authorised in accordance with the Markets in Financial Instruments Directive in an EEA Member State, or is an entity subject to regulation as a Consolidated Supervised Entity (“CSE”) by the US Securities and Exchange Commission;

(ii) In the case of a counterparty which is not a credit institution, the counterparty has a minimum credit rating of A2 or equivalent, or is

deemed by the UCITS to have an implied rating of A2. Alternatively, an unrated counterparty will be acceptable where the UCITS is indemnified against losses suffered as a result of a failure by the counterparty, by an entity which has and maintains a rating of A2;

(iii) risk exposure to the counterparty does not exceed the limits set out in paragraph 6 of Notice UCITS 9;

(iv) the UCITS is satisfied that the counterparty will value the transaction with reasonable accuracy and on a reliable basis and will close out the transaction at any time at the request of the UCITS at fair value[2]; and

(v) the UCITS must subject its OTC derivatives to reliable and verifiable valuation on a daily basis and ensure that it has appropriate systems, controls and processes in place to achieve this. Reliable and verifiable valuation shall be understood as a reference to a valuation, by the UCITS, corresponding to fair value which does not rely only on market quotations by the counterparty and which fulfils the following criteria:

(a) the basis for the valuation is either a reliable up-to-date market value of the instrument, or, if such a value is not available, a pricing model using an adequate recognised methodology;

(b) verification of the valuation is carried out by one of the following:

(i) an appropriate third party which is independent from the counterparty of the OTC-derivative, at an adequate frequency and in such a way that the UCITS is able to check it;

(ii) a unit within the UCITS which is independent from the department in charge of managing the assets and which is adequately equipped for such purpose.

5. Risk exposure to an OTC derivative counterparty may be reduced where the counterparty will provide the UCITS with collateral and:

(i) the collateral falls within the categories of permitted collateral set out in paragraph 5(i) - (iv) of Notice UCITS 12

(ii) collateral is:

- marked to market daily;

[2] For the purposes of this paragraph, the reference to fair value shall be understood as a reference to the amount for which an asset could be exchanged or a liability settled between knowledgeable, willing parties in an arm's length transaction.

- transferred to the trustee, or its agent; and
- immediately available to the UCITS, without recourse to the counterparty, in the event of a default by that entity.

(iii) In the case of **non-cash collateral**, the collateral:

- cannot be sold or pledged
- has a minimum credit rating of A or equivalent;
- is held at the risk of the counterparty; and
- is issued by an entity independent of the counterparty.

(iv) In the case of **cash collateral**, the collateral may not be invested other than in the following:

- deposits with relevant institutions, which are capable of being withdrawn within 5 working days.
- government or other public securities which have a minimum credit rating of A or equivalent;
- certificates of deposit issued by relevant institutions, which have a minimum credit rating of A or equivalent;
- Repurchase agreements, in accordance with the provisions of Notice UCITS 12, provided the collateral received under the agreements meets with the requirements of this paragraph; and/or
- daily dealing money market funds which have a minimum credit rating of AAA or equivalent. If investment is made in a linked fund, as described in paragraph 1.3.2 of Notice UCITS 9, no subscription, conversion or redemption charge can be made by the underlying money market fund.

Invested cash collateral which is held at the credit risk of the UCITS, other than cash collateral invested in government or other public securities or money market funds, must be diversified so that no more than 20% of the collateral is invested in the securities of, or placed on deposit with, one institution.

Invested cash collateral may not be placed on deposit with, or invested in securities issued by the counterparty or a related entity.

6. Position exposure to the underlying assets of FDI, including embedded FDI in transferable securities or money market instruments, when combined where relevant with positions resulting from direct investments, may not exceed the investment limits set out in the Notices. This provision does not apply in the

case of index based FDI provided the underlying index is one which meets with the criteria set out in Regulation 49A of the Regulations.

7. A transferable security or money market instrument embedding a FDI shall be understood as a reference to financial instruments which fulfil the criteria for transferable securities or money market instruments set out in UCITS 9 and which contain a component which fulfils the following criteria:

   (a) by virtue of that component some or all of the cash flows that otherwise would be required by the transferable security or money market instrument which functions as host contract can be modified according to a specified interest rate, financial instrument price, foreign exchange rate, index of prices or rates, credit rating or credit index, or other variable, and therefore vary in a way similar to a stand-alone derivative;

   (b) its economic characteristics and risks are not closely related to the economic characteristics and risks of the host contract;

   (c) it has a significant impact on the risk profile and pricing of the transferable security or money market instrument.

8. A transferable security or a money market instrument shall not be regarded as embedding a FDI where it contains a component which is contractually transferable independently of the transferable security or the money market instrument. Such a component shall be deemed to be a separate financial instrument.

Cover requirements

9. A UCITS must ensure that its global exposure relating to FDI does not exceed its total net asset value. Global exposure is calculated taking into account the current value of the underlying assets, the counterparty risk, future market movements and the time available to liquidate the positions. A UCITS may not therefore be leveraged in excess of 100% of net asset value.

10. A transaction in FDI which gives rise, or may give rise, to a future commitment on behalf of a UCITS must be covered as follows:

    (i) in the case of FDI which automatically, or at the discretion of the UCITS, are cash settled a UCITS must hold, at all times, liquid assets which are

sufficient to cover the exposure.

(ii) in the case of FDI which require physical delivery of the underlying asset, the asset must be held at all times by a UCITS. Alternatively a UCITS may cover the exposure with sufficient liquid assets where:

- the underlying assets consists of highly liquid fixed income securities; and/or
- the UCITS considers that the exposure can be adequately covered without the need to hold the underlying assets, the specific FDI are addressed in the Risk Management Process, which is described in paragraph 11 below, and details are provided in the prospectus.

Risk management

11. (i) A UCITS must provide the Financial Regulator with details of its proposed Risk Management Process vis-à-vis its FDI activity. The initial filing is required to include information in relation to:

- Permitted types of FDI, including embedded derivatives in transferable securities and money market instruments;
- Details of the underlying risks;
- Relevant quantitative limits and how these will be monitored and enforced;
- Methods for estimating risks.

(ii) Material amendments to the initial filing must be notified to the Financial Regulator in advance. The Financial Regulator may object to the amendments notified to it and amendments and/or associated activities objected to by the Financial Regulator may not be made.

12. A UCITS must submit a report to the Financial Regulator on its FDI positions on an annual basis. The report, which must include information under the different categories identified in paragraph 11(i) above, must be submitted with the annual report of the UCITS. A UCITS must, at the request of the Financial Regulator, provide this report at any time.

UCITS 11.1

Undertakings for Collective Investment in Transferable Securities

Borrowing powers

1. Neither an investment company, nor a management company or trustee acting on behalf of a unit trust or a common contractual fund, may borrow money.

2. An investment company may borrow up to 10 per cent of its assets and a unit trust or a common contractual fund may borrow up to 10 per cent of the value of the fund, provided this borrowing is on a temporary basis. A trustee may give a charge over the assets of the UCITS in order to secure borrowings. Credit balances (e.g. cash) may not be offset against borrowings when determining the percentage of borrowings outstanding.

3. An investment company may borrow up to 10 per cent of its assets to make possible the acquisition of real property required for the purpose of its business. In this case the total borrowing referred to in this paragraph and paragraph 2 above must not exceed 15 per cent of the investment company's assets.

4. A UCITS may acquire foreign currency by means of a back-to-back loan agreement. Foreign currency obtained in this manner is not classed as borrowings for the purposes of the borrowing restriction contained in Regulation 70 (and paragraph 2 above) provided that the offsetting deposit:

   (i) is denominated in the base currency of the scheme; and
   (ii) equals or exceeds the value of the foreign currency loan outstanding.

   However, where foreign currency borrowings exceed the value of the back-to-back deposit, any excess is regarded as borrowing for the purposes of Regulation 70 (and paragraph 2 above).

UCITS 12.3

Undertakings for Collective Investment in Transferable Securities

Techniques and Instruments, including Repurchase/Reverse Repurchase Agreements and Stock Lending, for the purposes of efficient portfolio management

For the purposes of this Notice, "relevant institutions" refers to those institutions specified in sub-paragraphs 1.4(i), (ii) and (iii) of Notice UCITS 9.

1. UCITS may employ techniques and instruments relating to transferable securities and money market instruments subject to the Regulations and to conditions imposed by the Financial Regulator.

2. Techniques and instruments which relate to transferable securities or money market instruments and which are used for the purpose of efficient portfolio management shall be understood as a reference to techniques and instruments which fulfil the following criteria:

   (a) they are economically appropriate in that they are realised in a cost-effective way;

   (b) they are entered into for one or more of the following specific aims:
   (i) reduction of risk;
   (ii) reduction of cost;
   (iii) generation of additional capital or income for the UCITS with a level of risk which is consistent with the risk profile of the UCITS and the risk diversification rules set out in Notice UCITS 9;

   (c) their risks are adequately captured by the risk management process of the UCITS, and

   (d) they cannot result in a change to the UCITS' declared investment objective or add substantial supplementary risks in comparison to the general risk policy as described in its sales documents.

3. Financial derivative instruments used for efficient portfolio management, in accordance with paragraph 1, must also comply with the provisions of Notice UCITS 10 and Guidance Note 3/03.

Repurchase/Reverse Repurchase agreements and Stock Lending

4. Repurchase/reverse repurchase agreements, ("repo contracts") and stock lending may only be effected in accordance with normal market practice.

5. Collateral obtained under a repo contract or stock lending arrangement must be liquid and in the form of one of the following:

(i) cash;

(ii) government or other public securities;

(iii) certificates of deposit issued by relevant institutions;

(iv) bonds/commercial paper issued by relevant institutions or by non-bank issuers where the issue and issuer are rated A1 or equivalent;

(v) letters of credit with a residual maturity of three months or less, which are unconditional and irrevocable and which are issued by relevant institutions;

(vi) equity securities traded on a stock exchange in the EEA, Switzerland, Canada, Japan, the United States, Jersey, Guernsey, the Isle of Man, Australia or New Zealand.

6. Until the expiry of the repo contract or stock lending arrangement, collateral obtained under such contracts or arrangements:

(i) must be marked to market daily;

(ii) must equal or exceed, in value, at all times the value of the amount invested or securities loaned;

(iii) must be transferred to the trustee, or its agent; and

(iv) must be immediately available to the UCITS, without recourse to the counterparty, in the event of a default by that entity.

Paragraph (iii) is not applicable in the event that a UCITS uses tri-party collateral management services of International Central Securities Depositaries and relevant institutions which are generally recognised as specialists in this type of transaction. The trustee must be a named participant to the collateral arrangements.

7. **Non-cash collateral:**

(i) cannot be sold or pledged;

(ii) must be held at the risk of the counterparty; and

(iii) must be issued by an entity independent of the counterparty.

8. **Cash collateral:**

Cash may not be invested other than in the following:

(i) deposits with relevant institutions;

(ii) government or other public securities;

(iii) certificates of deposit as set out in paragraph 5 (iii) above;

(iv) letters of credit as set out in paragraph 5 (v) above;

(v) repurchase agreements, subject to the provisions herein;

(vi) daily dealing money market funds which have and maintain a rating of AAA or equivalent. If investment is made in a linked fund, as described in paragraph 1.3 of Notice UCITS 9, no subscription, conversion or redemption charge can be made by the underlying money market fund.

9. In accordance with paragraph 2(d) of this Notice, invested cash collateral held at the risk of the UCITS, other than cash collateral invested in government or other public securities or money market funds, must be invested in a diversified manner. A UCITS must be satisfied, at all times, that any investment of cash collateral will enable it to meet with its repayment obligations

10. Invested cash collateral may not be placed on deposit with, or invested in securities issued by, the counterparty or a related entity.

11. Notwithstanding the provisions of paragraph 6(iii), a UCITS may enter into stock lending programmes organised by generally recognised International Central Securities Depositaries Systems provided that the programme is subject to a guarantee from the system operator.

12. The counterparty to a repo contract or stock lending arrangement must have a minimum credit rating of A2 or equivalent, or must be deemed by the UCITS to have an implied rating of A2. Alternatively, an unrated counterparty will be acceptable where the UCITS is indemnified against losses suffered as a result of a failure by the counterparty, by an entity which has and maintains a rating of A2 or equivalent.

13. A UCITS must have the right to terminate the stock lending arrangement at any time and demand the return of any or all of the securities loaned. The agreement must provide that, once such notice is given, the borrower is obligated to redeliver the securities within 5 business days or other period as normal market practice dictates.

14. Repo contracts, stock borrowing or stock lending do not constitute borrowing or lending for the purposes of Regulation 70 and Regulation 71 respectively.

UCITS 13.3

Undertakings for Collective Investment in Transferable Securities

Umbrella UCITS

NOTE: The Regulations define an umbrella fund as... "a UCITS which is divided into a number of sub-funds, and each sub-fund shall be treated as a separate UCITS for the purposes of Part VII of these Regulations".

1. Where a UCITS is constituted as an umbrella UCITS, each sub-fund of the UCITS must comply with the Regulations and conditions governing UCITS.

2. The prospectus of an umbrella UCITS must clearly state the charges, if any, applicable to the exchange of units in one sub-fund for units in another.

3. The trust deed, deed of constitution or articles of association of an umbrella UCITS must provide that the assets of each sub-fund shall belong exclusively to the relevant sub-fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other sub-fund and shall not be available for any such purpose.

4. The prospectus of a UCITS investment company established as an umbrella UCITS, must include the words "***An umbrella fund with segregated liability between sub-funds".*** Investment companies constituted as umbrella schemes which were authorised and commenced trading before 30 June 2005 and which do not have segregated liability between sub-funds must clearly disclose the potential risks to investors arising from the absence of the segregation of liability between sub-funds.

5. A unit trust or a common contractual fund constituted as an umbrella UCITS may produce separate periodic reports for individual sub-funds. In such cases, the report of each sub-fund must name the other sub-funds and state that the reports of such sub-funds are available free of charge on request from the management company.

6. In accordance with company law, an investment company constituted as an umbrella UCITS must include accounts for all sub-funds of that company in the periodic reports issued by the company.

7. An umbrella UCITS which has been authorised by the Financial Regulator must obtain the Financial Regulator's prior approval for each sub-fund. Details of proposed sub-funds, and the amendment or supplement to the prospectus which will set out the investment objectives and policy for the new sub-funds, must be submitted for approval. Where a supplement to the prospectus is issued the supplement must state that the UCITS is constituted as an umbrella UCITS and name the other existing sub-funds.

8. Investment by a sub-fund within an umbrella UCITS in the units of another sub-fund within the umbrella is subject to the following, in addition to the provisions of paragraph 1.3 and paragraph 3 of Notice UCITS 9:
   - investment must not be made in a sub-fund which itself holds units in other sub-funds within the umbrella;
   - the investing sub-fund may not charge an annual management fee in respect of that portion of its assets invested in other sub-funds within the umbrella. This provision is also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the UCITS.

9. Investment by a sub-fund within a UCITS investment company established as an umbrella UCITS, in the units of another sub-fund within the umbrella, by way of transfer for consideration[1], is subject to prior notification to the Financial Regulator.

Financial Institutions and Funds Authorisation
Financial Regulator
April 2008

[1] Regulation 32A of the Regulations permits an umbrella investment company to acquire shares in a sister sub-fund by way of subscription or *transfer for consideration.* It is expected that, generally, such cross-investments will be processed as subscriptions, under normal dealing arrangements. In the event that a transfer for consideration is proposed the UCITS must notify the Financial Regulator in advance setting out the rationale behind the proposed transaction.

UCITS 14.1

Undertakings for Collective Investment in Transferable Securities

Dealings by promoter, manager, trustee, investment adviser and group companies

1. Any transaction carried out with a UCITS by a promoter, manager, trustee, investment adviser and/or associated or group companies of these must be carried out as if effected on normal commercial terms negotiated at arms length. Transactions must be in the best interests of the unit-holder.

2. Transactions permitted are subject to:

   (i) certified valuation by a person approved by the trustee as independent and competent; or

   (ii) execution on best terms on organised investment exchanges under their rules; or

   (iii) where (i) and (ii) are not practical, execution on terms which the trustee is satisfied conform to the principles outlined in 1. above.

   The trustee may hold funds for a UCITS subject to the provisions of Section 30 of the Central Bank Act, 1989. Funds held by a trustee for a UCITS must be held on terms which comply with paragraph 1 above.

3. Where it is envisaged that such transactions may be entered into, there must be full disclosure in the prospectus issued by the UCITS.

Financial Institutions and Funds Authorisation
Financial Regulator
April 2008

UCITS 15.3

Undertakings for Collective Investment in Transferable Securities

Supervisory requirements for UCITS authorised in another Member State intending to market their units in Ireland

1. A UCITS situated in another Member State which proposes to market its units in Ireland must submit the following documents to the Financial Regulator:

   (i) a standardized notification letter in English prepared in accordance with the model letter set out in Appendix A;

   (ii) the original attestation by the home Member State competent authority to the effect that the UCITS fulfils the conditions imposed by the UCITS Directive; or

   a certified copy[1] of the original attestation;

   (iii) the latest fund rules (for a unit trust or a common contractual fund) or instruments of incorporation (in the case of an investment company);

   (iv) the latest full prospectus;

   (v) the latest simplified prospectus;

   (vi) the latest annual report and any subsequent half-yearly report; and

   (vii) details of the arrangements made for the marketing of units in Ireland.

   Complete notifications will be processed within two weeks of receipt of the application. If the notification is incomplete the UCITS will be informed as soon as possible and, in any case, within two weeks from the date of receipt of the incomplete notification.

2. The UCITS must take adequate measures to ensure that facilities are available in Ireland for making payments to unit holders, repurchasing and redeeming units and making available to them all the information which UCITS are obliged to provide. The Financial Regulator must be provided with a written confirmation from the entity providing these facilities (the facilities agent) that it has agreed to act for the UCITS.

[1] Certification is by the UCITS or its legal representative, who should be empowered by written mandate to act on behalf of the UCITS. The Financial Regulator will not require a copy of this written mandate.

3. The UCITS may commence marketing:

   (i) immediately upon notice from the Financial Regulator that the requirements of paragraph 1 and 2 above have been fulfilled; or

   (ii) within two months from the date of receipt of a complete notification, unless the Financial Regulator has communicated to it that the UCITS does not comply with Irish law, regulations and administrative provisions in force which do not fall within the UCITS Directive.

4. The UCITS must distribute within Ireland, in English or Irish, all the documents and information which a UCITS is required to publish under the Regulations.

5. The full prospectus must provide the following information for Irish investors:

   (i) details of the facilities agent and the facilities maintained;

   (ii) provision of Irish tax laws, if applicable.

6. A UCITS constituted as an umbrella UCITS must notify the Financial Regulator before marketing units of additional sub-funds in Ireland and submit the following documents:

   (i) a revised attestation by the home Member State competent authority to include the new sub-funds;

   (ii) a standardized notification letter in English prepared in accordance with the model letter in Appendix A;

   (iii) the revised full prospectus; and

   (iv) the revised simplified prospectus.

   The UCITS may begin to market the additional sub-funds immediately.

7. In the case of umbrella UCITS, all sub-funds to be marketed in Ireland can be included in a single notification letter. If an umbrella UCITS intends to market only some sub-funds in Ireland only those sub-funds need to be included in the notification.

8. UCITS which market units in Ireland must comply with the advertising standards set out in paragraph 10 of Notice UCITS 6.

9. UCITS which market units in Ireland are required to provide the following to the Financial Regulator, without delay:

   (i) annual and half-yearly reports;

(ii) details of any amendments to the fund rules or instruments of incorporation; and

(iii) details of any amendments to the full and / or simplified prospectus.

10. The name of the UCITS and the name and address of the facilities agent will be placed on a list of UCITS marketing in Ireland, which will be made available to the public on request.

11. Where the UCITS ceases marketing to Irish investors, or in the case of an umbrella UCITS ceases marketing some sub-funds, the UCITS must inform the Financial Regulator in writing.

Notification should be addressed to:

The Manager
Financial Institutions and Funds Authorisation
Financial Regulator
P.O. Box No. 9138
College Green
Dublin 2

or may be submitted electronically to UCITS15@financialregulator.ie

APPENDIX A

Model notification letter to market units of UCITS in Ireland

Name of the UCITS: ……...

Home Member State of the UCITS:…….

Legal Form of the UCITS: *Investment Company/ Unit Trust/ Common Contractual Fund (please circle the correct choice)*

Does the UCITS have sub-funds: *Yes/No*

Name of sub-fund(s) to be marketed in Ireland:

……
……
……
……
……
……

Name of Management Company:……

Scope of activities of the Management Company in Ireland:

……
……..
……..
……..
……..
……..

Address and registered office of Management Company or Self-Managed Investment Company:

……

……

……

……

Relevant details of contact person in Management Company or Self-Managed Investment Company:

Name:……...

Telephone number: …….

Fax number: ……

E-mail address: ……

Additional comments in relation to the UCITS, if relevant:

……

……

……

……

Attached documents

- An original attestation by the home Member State competent authority or a copy of the original attestation certified by the UCITS;
- The latest fund rules or instruments of incorporation;
- The latest full prospectus;
- The latest simplified prospectus; and
- The latest annual report and any subsequent half-yearly report.

Marketing arrangements

- Details of the arrangements made for the marketing of the units in Ireland; and
- Written confirmation from the facilities agent that it has agreed to act for the UCITS.

Confirmation by the UCITS

I hereby confirm that the documents attached to this notification letter contain all relevant information as provided for in the Directive and CESR's guidelines regarding the notification procedure, including its annexes. The text of the documents does not have any deletions in comparison with the documents which have been provided to the home Member State authority but without prejudice to Article 44(1) and Article 45 of the Directive.

Date: …….....

……..
(Signature of an authorised signatory of the UCITS, or a third person empowered by written mandate to act on behalf of the notifying UCITS)

……
(Name in full and position of the undersigned authorised signatory of the UCITS, or of the third person empowered by written mandate to act on behalf of the notifying UCITS)

UCITS 16.1

Undertakings for Collective Investment in Transferable Securities

Code of conduct in relation to collective portfolio management

1. A management company shall ensure in all transactions that it:
   (i) acts honestly and fairly in conducting its business activities in the best interests of the collective investment schemes under management, the investors in those schemes and the integrity of the market;
   (ii) acts with due skill, care and diligence in the best interests of the collective investment schemes under management, the investors in those schemes and the integrity of the market;
   (iii) has and employs effectively the resources and procedures that are necessary for the proper performance of its business activities;
   (iv) makes a reasonable effort to avoid conflicts of interests and, when they cannot be avoided, ensures that the collective investment schemes under management and the investors in those schemes are fairly treated; and
   (v) complies with the letter and the spirit of all regulatory requirements applicable to the conduct of its business so as to promote the best interests of investors in the collective investment schemes under management and the integrity of the market.

2. A management company must not, in any written communication or agreement, save as permitted by applicable legislation, seek to exclude or restrict any legal liability or duty of care which it has under the Regulations or conditions imposed by the Financial Regulator to a collective investment scheme under management.

   In particular, unless it is reasonable to do so in the circumstances, a management company must not, in any written communication or agreement, seek to exclude or restrict:

(a) any duty to act with skill, care and diligence which is owed to the collective investment schemes under management; or

(b) any liability owed to collective investment schemes under management, for failure to exercise the degree of skill, care and diligence which may reasonably be expected of it in the provision of collective portfolio management.

A management company must not try, unreasonably, to rely on any provision seeking to exclude or restrict any such duty or liability.

3. A management company must take all reasonable steps, in executing transactions on behalf of a collective investment scheme under management to ensure that it deals to the best advantage of the scheme.

4. A management company may aggregate a transaction for a collective investment scheme under management with transactions for other collective investment schemes under management where it is unlikely that the aggregation will operate to the disadvantage of any of the schemes involved, provided this possibility is clearly disclosed in the trust deed, deed of constitution or management agreement.

5. A management company must deal with transactions for collective investment schemes under management fairly and in the sequence in which they arise.

6. A management company must maintain a file of all written complaints received against it, including a record of their response and the action, if any, taken as a result of the complaint.

7. A management company shall ensure that it has adequate written procedures in place for the effective consideration and proper handling of complaints.

8. Where it appears to the management company that the complainant is not satisfied with the outcome of the investigation into their complaint, the management company shall ensure that the complainant is notified of their right to refer the matter to the Financial Regulator.

9. A management company must take reasonable steps to ensure that neither it nor any of its officers nor employees:

   (a) offers or gives; or

   (b) solicits or accepts

   any inducement which is likely to conflict significantly with any duties of the recipient or the recipient's employer. ("Inducement" does not include disclosable commission or goods or services which can reasonably be expected to assist in the provision of collective portfolio management and which are provided or are to be provided under a soft commission arrangement.)

10. A management company must have procedures in place to prevent late trading.

11. A management company must have procedures in place to take into account the risks associated with market timing.

12. An investment company which does not designate a management company must comply with the provisions of this Notice as appropriate.

CAPITAL COMPLIANCE REQUIREMENT

The Minimum Capital Requirement Report must accompany the annual audited accounts and half-yearly financial statement submitted by the firm to the Financial Regulator.

1. FINANCIAL RESOURCES REQUIREMENT

Financial Resources may be calculated as the aggregate of:

- Equity Capital fully paid up, including paid up ordinary share capital[1]
- Perpetual non-cumulative preference shares
- Qualifying Subordinated Loan Capital (see below)
- Share Premium Account
- Disclosed revenue and capital reserves (excluding revaluation reserves)
- Externally verified interim net profits

Less:

- Current year losses

The Financial Regulator may permit subordinated loans to be used by a firm to satisfy part of its financial resources requirement as follow:

Conditions for use of perpetual Subordinated Loan Capital:

(a) it may not be repaid on the bearer's initiative or without the prior agreement of the Financial Regulator;
(b) the debt agreement must provide for the firm to have the option of deferring the payment of interest on the debt;
(c) the lender's claims on the firm must be wholly subordinated to those of all non-subordinated creditors;
(d) the documents governing the issue of the securities must provide for debt and unpaid interest to be such as to absorb losses, whilst leaving the firm in a position to continue trading;
(e) only fully paid-up amounts shall be taken into account; and
(f) agreements must be in a form acceptable to the Financial Regulator.

Conditions for use of redeemable Subordinated Loan Capital:

To qualify for inclusion, the subordinated loans must have an original maturity of at least 5 years and have the following characteristics:

(a) only fully paid-up loans may be taken into account;
(b) the extent to which they rank as Financial Resources will be reduced on a straight-line basis over the last five years before repayment date;

---

[1] Capital contributions are acceptable for inclusion here provided they are executed in the Financial Regulator's approved format.

(c) the loan agreement must not include any clause providing that in specified circumstances, other than the winding up of the firm the debt will become repayable before the agreed repayment date;
(d) amounts may not be repaid without prior approval of the Financial Regulator;
(e) the lender's claims on the firm must be wholly subordinated to those of all other non-subordinated creditors;
(f) agreements must be in a form acceptable to the Financial Regulator.

2. ADDITIONAL AMOUNT

In the case of a **UCITS management company only**, when the net asset value of the collective investment schemes under management exceeds €250,000,000, the management company must provide an additional amount of own funds, which shall be equal to 0.02% of the amount by which the net asset value exceeds €250,000,000.

A management company need not provide up to 50% of this Additional Amount if it (i) benefits from a guarantee of the same amount given by a credit institution or insurance undertaking and (ii) the form of guarantee is approved by the Financial Regulator.

3. EXPENDITURE REQUIREMENT

The firm must, at all times, maintain a minimum capital requirement equivalent to one quarter of its preceding year's fixed overheads ('**expenditure requirement**').

Fixed overheads include all expenses incurred by the firm with the following exceptions:

- exceptional and extraordinary items which have previously been agreed with the Financial Regulator;
- shared commissions paid, other than to officers and staff of the firm;
- profit shares, bonuses, etc;
- losses arising on the translation of foreign currency balances;
- depreciation;
- any other non-fixed expense which has been previously agreed with the Financial Regulator.

The expenditure figure used should be taken from the most recent audited accounts of 12 months duration. However, the Financial Regulator reserves the right to adjust this should it be deemed not to reflect accurately the current position of the firm.

Where the firm proposes to deduct an expense requiring the prior approval of the Financial Regulator as specified above, the firm should consult and agree this deduction with the Financial Regulator prior to the submission of the firm's return for the relevant period.

Supporting documentation should be provided for any deductions from fixed overhead, which are not easily identified in the profit and loss account and balance sheet submitted.

4. MINIMUM CAPITAL REQUIREMENT

UCITS Management Companies

(i) The total of the Financial Resources Requirement and the Additional Amount required to be held by the firm, shall never be less than the Expenditure Requirement.

(ii) The total of the Financial Resources Requirement and the Additional Amount required to be held by the firm, is not required to exceed €10,000,000.

(iii) Pursuant to (i) above, the higher of the Expenditure Requirement or the Financial Resources Requirement must be held in the form of eligible assets in accordance with 5 below.

Fund administration/trustee companies

(i) The Financial Resources Requirement shall never be less than the Expenditure Requirement

(ii) Pursuant to (i) above, the higher of the Expenditure Requirement or the Financial Resources Requirement must be held in the form of eligible assets in accordance with 5 below.

5. ELIGIBLE ASSETS REQUIREMENT

The Expenditure Requirement or the Financial Resources Requirement if higher must be held in the form of eligible assets which are easily accessible and which are free from any liens or charges.

Eligible assets may be calculated as follows:

- Total Assets (fixed assets and current assets) less the following ineligible assets
- Fixed Assets
- Cash or cash equivalents held with Group companies
- Debtors
- Bad debt provisions
- Prepayments
- Intercompany amounts (gross figure)
- Loans
- Collective investment schemes which are not daily dealing
- Any other assets which are not easily accessible[2]

A firm, which is a member of a group, must maintain the Expenditure Requirement or the Financial Resources Requirement if higher outside the group. The firm must be in a position to demonstrate its ongoing compliance with this requirement.

---

[2] When a firm invests all or part of its capital in one or more collective investment schemes, the Financial Regulator reviews the relationships linking the scheme(s) and the firm. It is the Financial Regulator's view that it is likely that where the firm invests in collective investment schemes promoted by other group companies or to which other group companies provide services, its access to those schemes is likely to be restricted in the event that the related firm gets into difficulty. Accordingly, investments in such collective investment schemes will not rank as eligible assets for the purposes of satisfying the firm's capital requirement.

MINIMUM CAPITAL REQUIREMENT REPORT

NAME OF FIRM: _____

Period under review: _____ Currency: _____

This report must be submitted by the firm at the reporting intervals advised to it on authorisation.

1. FINANCIAL RESOURCES		
Equity capital fully paid up including ordinary share capital	_____	
Perpetual non-cumulative preference shares	_____	
Eligible capital contributions (executed in Financial Regulator's approved format)	_____	
Qualifying Subordinated Loan Capital (see Note 1) (executed in Financial Regulator's approved format)	_____	
Share Premium Account	_____	
Disclosed Reserves and Capital Reserves (excluding Revaluation Reserves) (last audited figures)	_____	
Other Reserves	_____	
Less: Current Year Losses	_____	
TOTAL FINANCIAL RESOURCES		

2. ADDITIONAL AMOUNT UCITS MANAGEMENT COMPANIES ONLY		
Assets under management (net)	_____	
Excess over €250,000,000 if applicable	_____	
ADDITIONAL AMOUNT (= Excess amount X 0.02%)	_____	

3. EXPENDITURE REQUIREMENT		
Fixed Overheads (i.e. total expenditure)	_____	
Less: *(see note 3)*		
Exceptional and extraordinary items previously agreed with the Financial Regulator	_____	
Shared Commissions paid (other than to officers and staff of the firm)	_____	
Profit shares, bonuses, etc	_____	

Losses on translation of foreign currency balances		
Depreciation		
Any other non-fixed expense previously agreed with the Financial Regulator (see note 2)		
Net Qualifying Expenditure		
EXPENDITURE REQUIREMENT [One quarter of Net Qualifying Expenditure]		

4. MINIMUM CAPITAL REQUIREMENT

- **UCITS MANAGEMENT COMPANY**

Financial Reporting Requirement + Additional Amount (if applicable) must equal or exceed the Expenditure Requirement (i.e, 1+2 ≥ 3)

- **ADMINISTRATION COMPANY / TRUSTEE COMPANY**

Financial Resources Requirement must equal or exceed the Expenditure Requirement (i.e. 1≥3)

5. ELIGIBLE ASSETS (Must be held outside the Group)

Fixed Assets (taken from Balance Sheet)		
Current Assets (taken from Balance Sheet)		
TOTAL ASSETS		
Less: Ineligible Assets		
Fixed Assets		
Cash held with group companies		
Debtors		
Bad Debts Provisions		
Prepayments		
Intercompany Amounts (gross)		
Loans		
Collective investment schemes which are not daily dealing		
Any other assets which are not easily accessible (see note 3)		
Total Ineligible Assets		
ELIGIBLE ASSETS		

COMPLIANCE TEST	
Are Eligible Assets at least equal to the higher of the Expenditure Requirement or the Financial Resources Requirement?	**YES / NO**
Where are Eligible Assets held? (Attach recent independent statement evidencing location)	
Is the firm in compliance at reporting date?	**YES/NO**
Was the firm incompliance with the capital adequacy requirements throughout the period under review?	**YES / NO**

Notes:

1. Only the qualifying amount of subordinated debt, executed in the Financial Regulator's approved format may be included here. The qualifying amount should be calculated as set out below:

Remaining term to Maturity	
Gross Amount	
Less Amortisation	
= Qualifying amount	

2. Where the firm proposes to deduct an expense requiring the prior approval of the Financial Regulator, the firm should consult and agree this deduction with the Financial Regulator prior to the submission of the firm's return for the relevant period. Supporting documentation should be provided for any deductions from fixed overhead, which are not easily identified in the profit and loss account and balance sheet submitted.

3. When a firm invests all or part of its capital in one or more collective investment schemes, the Financial Regulator reviews the relationships linking the scheme(s) and the firm. It is the Financial Regulator's view that it is likely that where the firm invests in collective investment schemes promoted by other group companies or to which other group companies provide services, its access to those funds is likely to be restricted in the event that the related firm gets into difficulty. Accordingly, investments in such collective investment schemes will not rank as eligible assets for the purposes of satisfying the firm's capital requirement.