

COLLECTIVE INVESTMENT SCHEMES (UCITS AMENDING DIRECTIVE AND LIMITED ISSUE AND GUARANTEED FUNDS) INSTRUMENT 2002

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Acts 2000 (the "Act"):
 - (a) section 138 (General rule-making powers);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 247 (Trust scheme rules);
 - (e) section 248 (Scheme particulars rules); and
 - (f) section 274 (2),(4) and (5) (Applications for recognition of individual schemes); and
 - (2) regulation 6 of the Open-Ended Investment Companies Regulations 2001.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force on 1 November 2002.

Amendments to the Handbook

- D. (1) The Collective Investment Schemes sourcebook is amended in accordance with Annex A, Parts 1 and 2 to this instrument;
- (2) The Conduct of Business sourcebook is amended in accordance with Annex B to this instrument; and
- (3) The Glossary is amended in accordance with Annex C to this instrument.

Citation

- E. This instrument may be cited as the Collective Investment Schemes (UCITS Amending Directive and Limited Issue and Guaranteed Funds) Instrument 2002.

By order of the Board
17 October 2002

Annex A

Amendments to the Collective Investment Schemes sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section is inserted, the place that it goes is indicated and the text is not underlined.

Part 1

Amendments resulting from the UCITS Amending Directive 2001/108/EC

CIS Ssourcebook – Transitional Pprovisions

1. Table

Transitional provision 14 Renumber as transitional provision 13A
(number)

After transitional provision 13A, insert the following:

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
14	<p><i>CIS</i> 3.2.2R(3)</p> <p>and</p> <p><i>CIS</i> 3.5.2R(10-14)</p> <p>and</p> <p><i>CIS</i> 5</p> <p>and</p> <p><i>CIS</i> 10.4.2R (16)</p>	R	<p>(1) A <i>UCITS scheme</i> for which there was an <i>authorisation order</i> in force on or prior to 13 February 2002 may continue to operate under the <i>rules</i> in <i>CIS</i> generally (excepting those to which this provision applies) until 12 February 2007. After that date it must have revised its structure and relevant <i>prospectus</i> and report and accounts in accordance with the <i>rules</i> to which this provision applies and disregard the <i>rules</i> in <i>CIS</i> 5A. All the other <i>rules</i> in <i>CIS</i> will then</p>	from 1/11/02 until 12/02/07	1/11/02

			apply.		
			(2) A <i>UCITS</i> scheme authorised between 14 February 2002 and 12 February 2004 may continue to operate under the <i>rules</i> in <i>CIS</i> generally (excepting those to which this provision applies) until 12 February 2004. After that date it must have revised its structure and relevant <i>prospectus</i> and report and accounts in accordance with the <i>rules</i> to which this provision applies and disregard the <i>rules</i> in <i>CIS</i> 5A. All the other <i>rules</i> in <i>CIS</i> will then apply.	from 1/11/02 until 12/02/04	1/11/02
15		G	A <i>UCITS</i> scheme may convert at any time within the limits in Transitional provision 14 (1) and 14 (2) as appropriate to operate under the investment <i>rules</i> in <i>CIS</i> 5, but having done so it may not revert to operating under the <i>rules</i> in <i>CIS</i> 5A. On conversion all the <i>rules</i> in <i>CIS</i> save <i>CIS</i> 5A will then apply to a converted <i>scheme</i> .	from 1/11/02 until 12/02/07	1/11/02

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
16	<i>CIS</i>	R	In relation to an <i>authorised</i>	from 1/11/02 until	1/11/02

	<p>2.2.6R(2)(a) (i), (ii), (iii), (iv)</p> <p>and</p> <p><i>CIS</i> 3.5.2R(2)(3)</p>	<p><i>fund</i> (which is a <i>securities scheme, warrant scheme, money market scheme, futures and options scheme, fund of funds scheme</i> or an <i>umbrella scheme</i>) in existence the day before 1 November 2002 where this <i>scheme</i> will fall within the new <i>UCITS scheme</i> type within <i>CIS 5</i> the category of the <i>scheme</i> as stated in the <i>instrument constituting the scheme</i> will be deemed amended to the new <i>scheme</i> type until any subsequent revision of such documentation.</p>	<p>date of revision</p>	
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(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
17	<p><i>CIS 2.2.2R</i> <i>CIS 2.2.6R</i> <i>CIS 2.2.7G</i></p>	R	<p>A <i>scheme</i> which has an <i>authorisation order</i> in force before 12 February 2004, which is to switch from operating under <i>CIS 5A</i> to <i>CIS 5</i> and whose <i>instrument constituting the scheme</i> refers to the efficient portfolio management <i>rules</i> in <i>CIS 5A.13</i> (either generally or specifically), may deem the <i>rules</i> in <i>CIS 5A.13</i> to continue to apply until the <i>instrument constituting the scheme</i> is amended for any other reason.</p>	<p>from 1/11/02 until date of revision</p>	<p>1/11/02</p>
18	<p><i>CIS 5A.13</i></p>	R	<p>An <i>authorised fund manager</i> may use efficient portfolio management</p>	<p>from 1/11/02 until revoked by the</p>	

			techniques in relation to a <i>scheme</i> provided that this use of <i>derivatives</i> is disclosed in the most recently published <i>prospectus</i> .	<i>FSA</i> .	
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(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
19	<i>CIS</i> 3.4.2R(2)(d) and <i>CIS</i> 3.5.2R(13)(2), (3)	R	The requirement to state maximum <i>remuneration</i> in the <i>prospectus</i> does not apply until the <i>prospectus</i> is first amended following 1 November 2002. The insertion of this maximum level of <i>remuneration</i> in the <i>prospectus</i> for the first time will not require a resolution of <i>holders</i> .	1/11/02	1/11/02

1.2.2 G *CIS* 2 (Constitution) sets out provisions on the contents of the documents required to form *authorised funds*, and other matters relating to their constitutional features, such as *classes* of *shares* (in *ICVCs*) and *units* (in *AUTs*) and the ~~categories~~ types of *authorised fund* (for example, ~~securities~~ UCITS schemes) that may be established.

1.2.5 G *CIS* 5 and *CIS* 5A (Investment and borrowing powers) requires *authorised funds* to comply with ~~a number of general~~ the rules on investments to ensure funds operate under the principles of risk spreading. The chapter is split in two because of the implementation of the UCITS Amending Directive relating to investment powers and the transitional provisions that Directive allows. Transitional provision 14 provides precise details on the operation but generally

~~speaking: and specific rules depending on the category of authorised fund. It also includes rules for efficient portfolio management and borrowing.~~

(1) UCITS qualifying schemes existing on or before 13 February 2002 and which now qualify as UCITS schemes may operate under the rules in CIS 5A and may switch to operate under CIS 5 at any time before 13 February 2007, at which time they must operate under CIS 5; and

(2) UCITS qualifying schemes authorised after 13 February 2002 but before 13 February 2004 may operate under the rules in CIS 5A or CIS 5 but must operate under the rules in CIS 5 by 13 February 2004.

1.2.23 G Establishing, operating or winding up a collective investment scheme is a regulated activity. No person may carry on a regulated activity in the United Kingdom, or purport to do so, unless he is an authorised person (or an exempt person). This prohibition is also known as the general prohibition. Guidance for persons considering carrying on regulated activities in the United Kingdom can be found in AUTH. AUTH 3 (Applications for Part IV permission) gives guidance on how to apply to the FSA for a Part IV permission. This authorisation is different to the authorisation of a scheme under Part XVII of the Act, guidance on which is provided in this sourcebook.

2.1.3 G This chapter assists in achieving the regulatory objective of protecting consumers (as envisaged by section 2 and 5 of the Act). In particular, this chapter:

...

(2) lays down the ~~categories~~ types to only one of which each authorised fund must belong (see CIS 2.1.4R);

...

~~Categories~~ Types of authorised fund

2.1.4 R An *authorised fund* must belong to only one of the following ~~categories~~ types:

(1) a *UCITS scheme* which complies with *CIS 5*;

2.1.4R Renumber as sub-paragraphs (2) – (10)

(1) – (9)

(numbers)

2.1.4A G Types of authorised fund - explanation.

(1) *Schemes* within *CIS 2.1.4R(1)* are *UCITS schemes* complying with *CIS 5* which sets out the extended investment powers available under UCITS Amending Directive 2001/108/EC.

(2) *Schemes* within *CIS 2.1.4R(2)*, (7), and *umbrella schemes* consisting of *sub-funds* equivalent to *CIS 2.1.4R(2)*, (7) type *schemes* are also *UCITS schemes* but they must comply with the investment rules in *CIS 5A*. Such *schemes* may convert to the *CIS 2.1.4R(1)* type at any time, however, they must so convert within the timescales set out in transitional provision 14.

(3) *Schemes* within *CIS 2.1.4R(3)* - (6), (8), (9) and type (10) where it is a non-*UCITS* compliant scheme are non-*UCITS schemes*. The investment rules in *CIS 5A* apply and transitional provision 14 has no application to them.

2.2.2 R (1) The *instrument of incorporation* must not include any provision which is unfairly prejudicial to the interests of *shareholders* generally or to the *holders* of any *class* of *shares*, except to the extent that (2) ~~and (3)~~ applies.

...

(6) The *instrument of incorporation* must contain a statement that,

subject to any restrictions in the *rules* in this sourcebook or in the *instrument of incorporation*, the *ICVC* has the power to invest in any *securities* market or *deal* on any *derivatives* market:

- (a) which is an *eligible securities* or *derivatives* market for that *ICVC* under *CIS 5* or *CIS 5A* (Investment and borrowing powers); or
- (b) to the extent that power to do so is conferred by *CIS 5* or *CIS 5A* (Investment and borrowing powers), irrespective of any issue of eligibility.

2.2.6 R (2) Authorised status

- (a) a statement:
 - (i) in all cases, of the ~~category type~~ to which the *AUT* belongs under *CIS 2.1.4R* (~~Categories Types~~ of authorised fund);
 - ...
 - (iii) for a *fund of funds scheme*, identifying the ~~categories types~~ of *scheme* in which the *fund of funds scheme* may invest; and
 - (iv) for an *AUT* that is an *umbrella scheme*, identifying the ~~category type~~ to which each *sub-fund* would belong if the *sub-fund* were itself the subject of a separate *authorisation order*;

...

- (6) *Investment* powers in *eligible* markets
except in the case of a *feeder fund*, a statement that, subject to any restriction in the *rules* in this sourcebook or the *trust deed*, the *AUT* has the power to invest in any *securities* market or

deal on any *derivatives* market:

- (a) which is an *eligible securities* or *derivatives* market for that *AUT* under *CIS 5* or *CIS 5A* (Investment and borrowing powers); or
- (b) to the extent that power to do so is conferred by *CIS 5* or *CIS 5A* (Investment and borrowing powers), irrespective of any issue of eligibility;

...

- 2.2.7 G (1) (g) Constituents of property, permitted transactions and borrowing powers

a statement of any of:

...

- (iv) the borrowing powers exercisable in relation to the *AUT*;

Where they are narrower than those permitted for the ~~category~~ type of *authorised fund* to which the *AUT* belongs under *CIS 5* or *CIS 5A* (Investment and borrowing powers);

- 2.2.8 R (3) *CIS 5* or *CIS 5A* (Investment and borrowing powers) has effect in relation to any *AUT* which is subject to any restriction imposed by the *trust deed*.

- 2.3.2 G ~~An authorised fund that is a securities scheme, a warrant scheme, or an umbrella scheme consisting of sub-funds which would, if separately authorised, be securities schemes or warrant schemes, is a UCITS scheme, unless, in the case of an AUT, the categories of holder of units in it are limited by a provision in the trust deed of a type permitted by CIS 2.2.7G(1)(j).~~

(1) A UCITS scheme may exercise the investment powers in CIS 5, which reflect those available under the UCITS Amending

Directive 2001/108/EC.

(2) Transitional provision 14 permits a UCITS scheme to exercise the narrower range of investments and investment powers in CIS 5A for a specified duration.

(3) A securities scheme or a warrant scheme or an umbrella scheme consisting of sub-funds which if separately authorised would be a securities scheme or a warrant scheme will be a UCITS scheme. Transitional provision 14 specifies the period after which such schemes must comply with certain rules including those in CIS 5.

3.2.2 R (3) An authorised fund manager must, upon the request of a holder in a UCITS scheme, provide information supplementary to the prospectus of that scheme relating to:

(a) the quantitative limits applying in the risk management of that scheme;

(b) the methods used in relation to (a); and

(c) any recent development of the risk and yields of the main categories of investment.

3.4.2 R (1) Any change to, or introduction of, any of the provisions of the prospectus listed in (2) (other than a reduction in (c) to (e)) requires the prior approval of a resolution of the holders or, (for an ICVC) in the case of a change that affects only the holders of the units of a particular class or (classes), a resolution (or resolutions) of a class meetings (or meetings) of those holders.

- 3.4.2 R (2) The provisions referred to in (1) are those requiring to be included in the *prospectus* as a consequence of:
- ...
- (d) *CIS 3.5.2R(13)* (Other payments out of the *scheme property*) but excluding:
- (i) any current remuneration under *CIS 3.5.2R(13)(2),(3)* increased under the provisions of *CIS 8.2.6R* or *CIS 8.5.4R*; and
- (ii) charges and expenses under *CIS 3.5.2R(13)(1)* and *CIS 3.5.2R(13)(4)*.

3.5.2 R Table Contents of the prospectus
This table belongs to *CIS 3.5.2R*

...

- 3 (3) A description of any restrictions in the assets in which *investment* may be made, including restrictions in the extent to which the *authorised fund* may invest in any category of asset, indicating (where appropriate) where the restrictions are tighter than those imposed by *CIS 5* or *CIS 5A* (Investment and borrowing powers), whichever is relevant to the *scheme*.
- (4) A list of any individual *eligible securities* and *derivatives* markets through which the *authorised fund* may invest or *deal* in accordance with *CIS 5.2.12R* or *CIS 5A.3.3R(2)* (Eligible markets: requirements), whichever is relevant to that *scheme*. ~~(a~~ Any *securities* or *derivatives* market in a *EEA State* which is *eligible* in accordance with *CIS 5.2.12R(1)* or *CIS 5A.3.3R(1)* (Eligible markets ~~whichever is relevant to that *scheme*)~~ may be included in

the list or referred to in general terms).

...

- (10) Where the net asset value of a UCITS scheme is likely to have high volatility owing to its portfolio composition or the portfolio management techniques used, a prominent statement to that effect.
- (11) Where a UCITS scheme invests principally in collective investment scheme units, deposits, or derivatives or replicates an index in accordance with CIS 5.2.32R (Schemes replicating an index) a prominent statement regarding this investment policy.
- (12) Where derivatives transactions may be used in a UCITS scheme, a prominent statement as to whether these transactions are for the purposes of hedging or meeting the investment objectives or both and the possible outcome of the use of derivatives on the risk profile of the scheme.
- (13) In the case of a UCITS scheme which invests a substantial proportion of its assets in other collective investment schemes, a statement of the maximum level of management fees that may be charged to that UCITS scheme and to the collective investment schemes in which it invests.
- (14) In the case of a UCITS scheme, a statement that the investor may obtain on request the types of information (which must be listed) referred to in CIS 3.2.2R(3).

...

any remuneration (including a statement of the maximum

- 3.5.2 R 13 (2) level currently permitted) payable out of the *scheme property* to the *depository* or any third party;
- (3) any remuneration (including a statement of the maximum level currently permitted) to which (2) does not apply, payable out of the *scheme property* ~~to any third party~~ for services provided by an affected person;
- ~~(4) any remuneration to which (2) or (3) does not apply, payable out of the *scheme property* for services provided by an affected person;~~
- ~~(5) The types of any other charges and expenses that may~~
4) be taken out of the *scheme property*; and
- ~~(6) if, in accordance with CIS 8.3.5R(4) (Allocation of payments to capital or income (for ICVCs)) or CIS 8.5.7R(4) (Allocation of payments to capital or income (for AUTs)), the *authorised fund manager* and the *depository* have agreed that all or part of any payments permitted (excluding any stated under CIS 3.5.2R(12)(4) (Payments to the authorised fund manager)) and any other charges or expenses of the *authorised fund* may be treated as a capital expense:~~
- ~~(a) that fact; and~~
- ~~(b) the policy for the amount of the payments which may be so treated~~
- ...
- 16 (7) The amounts of the following minima (if they apply) for each ~~type~~ class of *unit* in the *authorised fund*:

- 4.1.1 R (2) ~~(a)~~ This section (*CIS* 4.1) applies to *ICVCs*, their *directors* (including the *ACD*) and *depositories*, and to the *managers* and *trustees* of *single-priced AUTs*.
- (3) ~~(a)~~ If, and to the extent that, the *authorised fund manager* and the *depository* so agree, *income units* and *accumulation units* are to be treated, for the purposes in (b) as belonging to the same *class of units*.
- ~~(2-3)~~ (b) The purposes to which (a) can apply are:
- (i) ascertaining the number of *units* to be issued or cancelled for the *authorised fund manager* to comply with *CIS* 4.3.9R(2) (Issue of units to meet authorised fund manager's obligation to sell) and *CIS* 4.3.10R(2) (Cancellation and payment for cancelled units); or
 - (ii) compliance with requirements of this chapter relating to information to be given by the *authorised fund manager* to the *depository*.
- (c) Paragraphs (a) and (b) do not apply to the *income units* and *accumulation units* of an *ICVC* unless the rights attached to those *classes* provide for their *prices* to be calculated by reference to undivided *shares* (whatever called) in a manner similar to that resulting from *CIS* 2.6.1R (Units and classes of units in *AUTs*).
- ~~(3)~~ ~~If, and to the extent that, the *authorised fund manager* and the *depository* so agree, *income units* and *accumulation units* are to be treated, for the purposes in (b) as belonging to the same *class of units*.~~

- 4.3.10 R (8) If the *authorised fund manager* has not ensured that the *scheme property* includes or will include sufficient cash in the appropriate currency (or a sufficient facility to borrow without infringing any applicable restriction in *CIS 5A.15.3R* (General power to borrow) or *CIS 5A.15.4R* (Borrowing limits) or CIS 5.5 within the period in (7)), that period is extended, for any relevant currency, until the shortage is rectified.
- 4.8.3 R (4) The value of the *scheme property* of an *authorised fund* must be determined in accordance with the relevant provisions of the *instrument constituting the scheme*, except to the extent that this *rule* (*CIS 4.8.3R*) or *CIS 5.2.5R* (Valuation) or CIS 5A.2.5R or *CIS 12.3* (Property schemes) applies.

After Chapter 4, insert the following new chapter:

Chapter 5

Investment and borrowing powers

5.1 Introduction

Application

- 5.1.1 R (1) This chapter applies in relation to *ICVCs* and *AUTs* which are not within transitional provision 14 and which:
- (a) were *UCITS schemes* when their *authorisation order* was made; or
 - (b) were *UCITS schemes* immediately after any alteration to the *scheme* approved under section 251 of the *Act* or regulation 21 of the *OEIC Regulations* became effective.
- (2) This section (*CIS 5.1*) applies to *authorised fund managers* and *depositories* of *schemes* within (1).

5.1.2 Application guidance

- G (1) A *scheme* may convert to, or be authorised to operate as, a *UCITS scheme* under the *rules* in *CIS 5* at any time but may not convert back to operate under the *rules* in *CIS 5A*.
Transitional provision 14 allows certain *schemes* to continue to operate under the *rules* in *CIS 5A* for a specific duration after which they must have converted to operate under *CIS 5*.
- (2) A *UCITS scheme* authorised on or before 13 February 2002 may operate within the *rules* in *CIS 5A* under transitional provision 14(1). It may at any time switch to operate under *CIS 5*. However, by 13 February 2007 it must have switched to operate under the *rules* in *CIS 5*.
- (3) A *UCITS scheme* authorised after 13 February 2002 may operate within the *rules* in *CIS 5A* under transitional provision 14(2). However, by 13 February 2004 it must have switched to operate under the *rules* in *CIS 5*.

Purpose

- 5.1.3 G This chapter helps in achieving the *regulatory objective* of protecting *consumers* by laying down minimum standards for the *investments* that may be held by an *authorised fund*. In particular:
- (1) the proportion of *transferable securities* and *derivatives* that may be held by an *authorised fund* is restricted if those *securities* and *derivatives* are not listed on an *eligible* market; the intention of this is to restrict *investment* in *transferable securities* or *derivatives* that cannot be accurately valued and readily disposed of; and
- (2) *authorised funds* are required to comply with a number of

investment *rules* that require the spreading of risk.

Explanation of this chapter

- 5.1.4 G (1) The *rules* in this chapter set out the investment powers for *UCITS schemes* operating under the provision of the widened investment powers in UCITS Amending Directive 2001/108/EC. Therefore, this chapter does not apply to *UCITS schemes* operating under the narrower range of investment powers in the unamended UCITS Directive (85/611/EEC) and which are within transitional provision 14 and authorised under the investment powers contained in *CIS 5A* (see *CIS 5A.1.4G* explanation). This chapter also does not apply to non-UCITS types of *schemes* (*geared futures and option schemes, futures and options schemes, fund of fund schemes, feeder funds* and non-UCITS *umbrella schemes*), which are authorised under the investment powers contained in *CIS 5A*.

Distinct meaning of certain terms

- 5.1.5 G Terms used in this sourcebook should be interpreted and applied as they are defined. However, because of the distinct nature of investments in which an *authorised fund* is permitted to invest, some of these terms are not always used in a way that corresponds with their usage in certain markets. For example, the term *warrants*. In this sourcebook *warrants* has a slightly wider meaning than is usually attributed to it in warrant markets. The definition of *warrants* reflects this distinction.

- 5.1.6 G Indicative overview of investment and borrowing powers
This table belongs to *CIS 5.1.4G* (3).

(note 1 and 2) UCITS Scheme Investments and investment techniques	Limits
<i>Approved securities</i>	Yes
Transferable but not <i>approved securities</i>	10%

<i>Government and public securities</i>	Yes
<i>Units</i>	Yes
<i>Warrants</i>	Yes
<i>Investment trusts</i>	Yes
<i>Deposits</i>	Yes
<i>Derivatives</i>	Yes
Immovables	No
Gold	No
Hedging	Yes
Stocklending	Yes
Underwriting	Yes
Borrowing	10%
Cash and <i>near cash</i>	Yes
Note	<u>Meaning of terms used</u>
"Yes"	Can be invested in without specific upper limit (though there may be limits of other kinds)
"No"	not available for investment.
A percentage	an upper limit (though there may be limits of other kinds).

5.2 General investment powers and limits for UCITS schemes

Application

5.2.1 R This section (*CIS 5.2*) applies to *authorised fund managers*, in respect of *UCITS schemes*, except :

- (1) *CIS 5.2.12R(2)(c)* (Eligible markets: requirements) which applies to *depositaries* of *UCITS schemes* only;
- (2) *CIS 5.2.24R* (Requirement to cover sales) which applies to *ICVCs* which are *UCITS schemes* and the *managers* and *trustees* of *AUTs* which are *UCITS schemes* only;
- (3) *CIS 5.2.25R(3)* (OTC transactions in derivatives) which also

applies to *depositories* of *UCITS schemes*;

- (4) *CIS 5.2.29R* (Significant influence for ICVCs), which applies to *ICVCs* which are *UCITS schemes* only;
- (5) *CIS 5.2.30R* (Significant influence for managers of AUTs), which applies to *managers* of *AUTs* which are *UCITS schemes* only; and
- (6) *CIS 5.2.31R* (Concentration), which also applies to *ICVCs*, only which are *UCITS schemes*.

Explanation of CIS 5.2

- 5.2.2 G This section outlines general investment *rules*, with which *authorised funds* must comply, in order to ensure that they qualify as *UCITS schemes*. The *scheme property* of an *authorised fund* may, subject to the *rules* in this chapter, comprise any assets or *investments* to which it is *dedicated*. For *ICVCs*, the *scheme property* may also include movable or immovable property that is necessary for the direct pursuit of the *ICVC's* business of investing in those assets or investments.

Prudent spread of risk

- 5.2.3 R An *authorised fund manager* must ensure that, taking account of the investment objectives and policy of the *authorised fund* as stated in the most recently published *prospectus* of the *authorised fund*, the *scheme property* of the *authorised fund* aims to provide a prudent spread of risk.

Investment powers: general

- 5.2.4 G The *scheme property* of each *authorised fund* must be invested only in accordance with the relevant provisions in this chapter that are applicable to that *authorised fund* and within any upper

limit in this chapter. However, the *instrument constituting the scheme* may further restrict:

- (1) the kind of property in which the *scheme property* may be invested;
- (2) the proportion of the *capital property* of the *authorised fund* to be invested in assets of any description;
- (3) the descriptions of transactions permitted; and
- (4) the borrowing powers of the *authorised fund*.

Valuation

5.2.5

- R (1) In this chapter, the value of the *scheme property* of an *authorised fund* means the net value of the *scheme property* determined in accordance with *CIS 4.8 (Valuation)* (for *ICVCs* and *single-priced AUTs*) or *CIS 15.8 (Valuation)* (for *dual-priced AUTs*), after deducting any outstanding borrowings, whether immediately due to be repaid or not.
- (2) When valuing the *scheme property* for this chapter:
- (a) the time as at which the valuation is being carried out ("the relevant time") is treated as if it were a *valuation point*, but the valuation and the relevant time do not count as a valuation or a *valuation point* for the purposes of *CIS 4* (for *ICVCs* and *single-priced AUTs*) and *CIS 15* (for *dual-priced AUTs*);
 - (b) *initial outlay* is regarded as remaining part of the *scheme property*;

- (c) if the *authorised fund manager*, having taken reasonable care, determines that the *authorised fund* will become entitled to any unrealised profit which has been made on account of a transaction in *derivatives*, that prospective entitlement is regarded as part of the *scheme property*; and
- (d) for a *dual-priced AUT*, when applying *CIS 15.8.4R* (Valuation):
 - (i) the *cancellation* basis only is required; and
 - (ii) paragraphs 1 to 8, 11 and 23 are not applicable.

Valuation

- 5.2.6 G It should be noted that for the purpose of *CIS 5.2.5R*, *CIS 4.8* or *CIS 15.8* may be affected by specific provisions in this chapter such as, for example, *CIS 5.4.6R* (Stock lending: treatment of collateral) or *CIS 12* (Special provisions for certain types of scheme).

Chapter to be construed as a whole

- 5.2.7 R (1) Where a *rule* in this chapter allows a transaction to be entered into or an *investment* to be retained only if possible obligations arising out of the *investment* transactions or out of the retention would not cause any breach of any limits in this chapter, it must be assumed that the maximum possible liability of the *authorised fund* under any other of those *rules* has also to be provided for.
- (2) Where a *rule* in this chapter permits an *investment* transaction to be entered into or an investment to be retained only if that *investment* transaction, or the retention, or other similar transactions, are covered:

- (a) it must be assumed that in applying any of those *rules*, the *authorised fund* must also simultaneously satisfy any other obligation relating to cover; and
- (b) no element of cover must be used more than once.

Examples

- 5.2.8 G Examples of the "provisions" referred to in *CIS 5.2.7R* are: *CIS 5.2.19R* (Investment in warrants and nil and partly paid securities) and *CIS 5.5.7R* (General power to accept or underwrite placings).

Transferable securities

- 5.2.9 R (1) Subject to this *rule (CIS 5.2.9R)*, a *transferable security* is an *investment* falling within article 76 (Shares etc), article 77 (Instruments creating or acknowledging indebtedness), article 78 (Government and public securities), article 79 (Instruments giving entitlement to *investments*) and article 80 (Certificates representing certain securities) of the *Regulated Activities Order*.
- (2) An *investment* is not a *transferable security* if the title to it cannot be transferred, or can be transferred only with the consent of a third party.
- (3) In applying (2) to an *investment* which is issued by a *body corporate*, and which is an *investment* falling within articles 76 (Shares, etc) or 77 (Instruments creating or acknowledging indebtedness) of the *Regulated Activities Order*, the need for any consent on the part of the *body corporate* or any members or *debenture* holders of it may be ignored.
- (4) An *investment* is not a *transferable security* unless the liability of the *holder* of it to contribute to the debts of the issuer is

limited to any amount for the time being unpaid by the holder of it in respect of the *investment*.

UCITS schemes: general

- 5.2.10 R (1) The *scheme property* of a *UCITS scheme* must, except where otherwise provided in the *rules* in this chapter, only consist of any or all of:
- (a) *transferable securities*;
 - (b) money market instruments permitted under *CIS 5.2.20R* (Investment in money market instruments);
 - (c) *derivatives* and forward transactions permitted under *CIS 5.2.22R* (Permitted transactions (derivatives and forwards));
 - (d) *deposits* permitted under *CIS 5.2.28R* (Investment in deposits); and
 - (e) *units in collective investment schemes* permitted under *CIS 5.2.15R* (Investment in collective investment schemes).
- (2) *Transferable securities* and money market instruments held within a *scheme* must (subject to (3) and (4)) be;
- (a) admitted to or *dealt* on an *eligible* market within *CIS 5.2.12R(1)(a)* (Eligible markets: requirements); or
 - (b) *dealt* on an *eligible* market within *CIS 5.2.12(1)(b)*.
- (3) Not more than 10% in value of the *scheme property* of a

UCITS scheme is to consist of *transferable securities*, which are not *approved securities*.

- (4) Not more than 10% in value of the *scheme property* is to consist of money market instruments, which do not fall within *CIS 5.2.20R* (Investment in money market instruments).
- (5) *CIS 5.2.13R* (Spread: general) and *CIS 5.2.14R* (Spread: government and public securities) do not apply until the expiry of a period of six months after the date of effect of the *authorisation order* in respect of the *authorised fund* (or on which the *initial offer* commenced if later) provided that *CIS 5.2.3R* (Prudent spread of risk) is complied with.
- (6) The following sections also apply to *UCITS schemes*:
 - (a) *CIS 5.3* (Derivatives exposure)
 - (b) *CIS 5.4* (Stock lending); and
 - (c) *CIS 5.5* (Cash, borrowing, lending and other provisions).

Eligible markets regime: purpose

- 5.2.11 G (1) To protect investors, this sourcebook provides that markets on which *investments* of *authorised funds* are *dealt* in or traded on should be of an adequate quality ("*eligible*") at the time of acquisition of the *investment* and until it is *sold*. This section specifies criteria based on those in the *UCITS Directive*, as to the nature of the markets in which the property of an *authorised fund* may be invested.
- (2) Where a market ceases to be *eligible*, *investments* on that market cease to be *approved securities*. The 10% restriction in *CIS 5.2.10R*(3), (4) (UCITS schemes: general) applies and

exceeding this limit because a market ceases to be *eligible* will generally be regarded as an inadvertent breach.

- 5.2.12 R (1) A market is *eligible* for the purposes of the *rules* in this sourcebook if it is:
- (a) a *regulated market*; or
 - (b) a market in an *EEA State* which is regulated, operates regularly and is open to the public.
- (2) A market not falling within (1) is *eligible* for the purposes of the *rules* in this sourcebook if:
- (a) the *authorised fund manager*, after consultation and notification with the *depository* (and in the case of an *ICVC*, any other *directors*), decides that market is appropriate for investment of, or *dealing* in, the *scheme property*;
 - (b) the market is included in a list in the *prospectus*; and
 - (c) the *depository* has taken reasonable care to determine that:
 - (i) adequate custody arrangements can be provided for the *investment* dealt in on that market; and
 - (ii) all reasonable steps have been taken by the *authorised fund manager* in deciding whether that market is *eligible*.
- (3) In (2), a market must not be considered appropriate unless it:

- (a) is regulated;
- (b) operates regularly;
- (c) is recognised;
- (d) is open to the public;
- (e) is adequately liquid; and
- (f) has adequate arrangements for unimpeded transmission of income and capital to or to the order of investors.

Spread: general

- 5.2.13 R (1) This *rule* (CIS 5.2.13R) does not apply to *government and public securities*.
- (2) For the purposes of this *rule* (CIS 5.2.13R) companies included in the same group for the purposes of consolidated accounts as defined in accordance with Directive 83/349/EEC or in the same group in accordance with international accounting standards are regarded as a single body.
- (3) Not more than 20% in value of the *scheme property* is to consist of *deposits* with a single body.
- (4) Not more than 5% in value of the *scheme property* is to consist of *transferable securities* or money market instruments issued by any single body.
- (5) The limit of 5% in (4) is raised to 10% in respect of up to 40% in value of the *scheme property*.

- (6) In applying (4) and (5) *certificates representing certain securities* are treated as equivalent to the underlying *security*.
- (7) The exposure to any one *counterparty* in an *OTC derivative* transaction must not exceed 5% in value of the *scheme property*. This limit is raised to 10% where the *counterparty* is an *approved bank*.
- (8) Not more than 20% in value of the *scheme* is to consist of *transferable securities* or money market instruments issued by the same group (as referred to in (2)).
- (9) Not more than 20% in value of the *scheme* is to consist of the *units* of any one *collective investment scheme*.
- (10) In applying the limits in (3),(4),(5), (6) and (7), not more than 20% in value of the *scheme property* is to consist of any combination of two or more of the following:
- (a) *transferable securities* or money market instruments issued by; or
 - (b) *deposits* made with; or
 - (c) exposures from *OTC derivatives* transactions made with;

a single body.
- (11) In applying the limits in (3),(4),(5),(6), (7) and (10), not more than 35% in value of the *scheme property* is to consist of any combination of two or more of the following:
- (a) *transferable securities* or money market instruments issued

by; or

(b) *deposits* made with; or

(c) exposures from *derivatives* transactions made with;

a single body.

Spread: government and public securities

5.2.14

R (1) This *rule* (CIS 5.2.14R) applies to *government and public securities* (“such securities”).

(2) Where no more than 35% in value of the *scheme property* is invested in such securities issued by any one body, there is no limit on the amount which may be invested in such securities or in any one issue.

(3) An *authorised fund* may invest more than 35% in value of the *scheme property* in such securities issued by any one body provided that:

(a) the *authorised fund manager* has before any such investment is made consulted with the *depository* and as a result considers that the issuer of such securities is one which is appropriate in accordance with the investment objectives of the *authorised fund*;

(b) no more than 30% in value of the *scheme property* consists of such securities of any one issue;

(c) the *scheme property* includes such securities issued by that or another issuer, of at least six different issues; and

- (d) the disclosures in (4) have been made.
- (4) Where it is intended that (3) may apply, the *instrument constituting the scheme*, and the most recently published *prospectus*, must clearly state:
- (a) the fact that more than 35% of the *scheme property* is or may be invested in such *securities* issued by one issuer;
 - (b) the names of the States, the local authorities or public international bodies issuing such securities in which the *authorised fund* may invest over 35% of its assets.
- (5) In this *rule* (CIS 5.2.14R) in relation to such securities:
- (a) issue, issued and issuer include guarantee, guaranteed and guarantor; and
 - (b) an issue differs from another if there is a difference as to repayment date, rate of interest, guarantor or other material terms of the issue.

Investment in collective investment schemes

5.2.15 R A *scheme* may invest in *units* in a *collective investment scheme* provided that no more than 30% of the value of that investing scheme is in *collective investment schemes* which are not *UCITS schemes* and only if the second *scheme* is permitted under (1) - (4):

- (1) it is a *scheme* which:
 - (a) Complies with the conditions necessary for it to enjoy the rights conferred by the *UCITS Directive*; or

- (b) is recognised under the provisions of section 270 of the *Act* (Schemes authorised in designated countries or territories);
- (2) it is a *scheme* which complies where relevant with *CIS* 5.2.18R (Investment in other group schemes);
- (3) it is a *scheme* which has terms which prohibit more than 10% in value of the *scheme property* consisting of *units* in *collective investment schemes*; and
- (4) for the purposes of this *rule* *CIS* 5.2.15R and *CIS* 5.2.13R (Spread: general) each *sub-fund* of an *umbrella scheme* is to be treated as if it were a separate *scheme* but no *sub-fund* of an *umbrella scheme* may invest in another *sub-fund* of that *umbrella scheme*.

Qualifying non-UCITS collective investment schemes

- 5.2.16 G *CIS* 17.3 gives further detail as to the recognition of a *scheme* under section 270 of the *Act*.

Investment in associated collective investment schemes

- 5.2.17 R *Units* in a *collective investment scheme* do not fall within *CIS* 5.2.15R (Investment in collective investment schemes) if that *collective investment scheme* is managed or operated by (or, if it is an *ICVC*, has as its *ACD*) the *authorised fund manager* of the investing *authorised fund* or an *associate* of that *authorised fund manager*, unless:

- (1) the *prospectus* of the investing *authorised fund* clearly states that the property of that investing fund may include such *units*; and

- (2) CIS 5.2.18R (Investment in other group schemes) is complied with.

Investment in other group schemes

5.2.18 R An *authorised fund* must not invest in or dispose of *units* in another *collective investment scheme* (the second *scheme*), which is managed or operated by (or in the case of an *ICVC*, whose *ACD* is), the *authorised fund manager* of such *authorised fund*, or an *associate* of that *authorised fund manager*, unless;

- (1) the *authorised fund manager* of the *authorised fund* is under a duty to pay to the *authorised fund* by the close of business on the fourth *business day* next after the agreement to *buy* or to *sell* the amount referred to in (3) and (4);
- (2) there is no charge in respect of the investment in or the disposal of *units* in the second *scheme*;
- (3) on investment, either:
 - (a) any amount by which the consideration paid by the *authorised fund* for the *units* in the second *scheme* exceeds the price that would have been paid for the benefit of the second *scheme* had the *units* been newly issued or sold by it; or
 - (b) if such price cannot be ascertained by the *authorised fund manager* of the *authorised fund*, the maximum amount of any charge permitted to be made by the seller of *units* in the second *scheme*;

- (4) on disposal, the amount of any charge made for the account of the *authorised fund manager* or *operator* of the second *scheme* or an *associate* of any of them in respect of the disposal; and
- (5) In (1), (2), (3) and (4):
 - (a) any addition to or deduction from the consideration paid on the acquisition or disposal of *units* in the second *scheme*, which is applied for the benefit of the second *scheme* and is, or is like, a *dilution levy* made in accordance with *CIS 4.6.3R* (for *ICVCs* and *single-priced AUTs*) or *SDRT provision* made in accordance with *CIS 4.6.3R* (for *ICVCs* and *single-priced AUTs*) or *CIS 15.6.3R* (for *dual-priced AUTs*) is to be treated as part of the *price* of the *units* and not as part of any charge; and
 - (b) any charge made in respect of an exchange of *units* in one *sub-fund* or separate part of the second *scheme* for *units* in another *sub-fund* or separate part of that *scheme* is to be included as part of the consideration paid for the *units*.

Investment in warrants and nil and partly paid securities

- 5.2.19 R (1) A *warrant* (“the proposed *warrant*”) falls within any power of investment only if, on the assumptions that:
- (a) there is no change to the *scheme property* between the acquisition of the proposed *warrant* and its exercise; and
 - (b) the rights conferred by the proposed *warrant* and all other

warrants forming part of the *scheme property* at the time of the acquisition of the proposed *warrant* will be exercised (whether or not it is intended that they will be);

it is reasonably foreseeable that the right conferred by the proposed *warrant* could be exercised by the *authorised fund* without contravening the *rules* in this chapter.

- (2) A *transferable security* on which any sum is unpaid falls within a power of investment only if it is reasonably foreseeable that the amount of any existing and potential call for any sum unpaid could be paid by the *authorised fund*, at the time when payment is required, without contravening the *rules* in this chapter.
- (3) A *warrant* which is an *investment* falling within article 80 of the *Regulated Activities Order* (Certificates representing certain securities) and which is akin to an *investment* falling within article 79 (Instruments giving entitlement to investments) of the *Regulated Activities Order* may not be included in the *scheme property* unless it is *listed* on an *eligible securities* market.

Investment in money market instruments

5.2.20 R A *UCITS scheme* may invest in money market instruments which are normally dealt in on the money market, are liquid and whose value can be accurately determined at any time, provided:

- (1) the money market instrument is listed on or normally *dealt* on an *eligible* market; or
- (2) the money market instrument is:

- (a) issued or guaranteed by a central, regional or local authority, a central bank of an *EEA State*, the European Central Bank, the European Union or the European Investment Bank, a non-*EEA State* or, in the case of a Federal State, by one of the members making up the federation, or by a public international body to which one or more *EEA States* belong; or
- (b) issued by a body, any *securities* of which are *dealt* in on an *eligible* market; or
- (c) issued or guaranteed by an establishment subject to prudential supervision in accordance with criteria defined by Community law or by an establishment which is subject to and complies with prudential *rules* considered by the *FSA* to be at least as stringent as those laid down by Community law.

Derivatives: general

- 5.2.21 R (1) A transaction in *derivatives* or a forward transaction must not be effected for a *scheme* unless:
- (a) the transaction is of a kind specified in *CIS* 5.2.22R (Permitted transactions (derivatives and forwards)); and
 - (b) the transaction is covered, as required by *CIS* 5.3.3R (Cover for transactions in derivatives and forward transactions).
- (2) Where a *scheme* invests in *derivatives*, the exposure to the underlying assets must not exceed the limits in *CIS* 5.2.13R (Spread: general) and *CIS* 5.2.14R (Spread: government and public securities) save as provided in (4).

- (3) Where a *transferable security* or money market instrument embeds a *derivative*, this must be taken into account for the purposes of complying with this section (*CIS 5.2*).
- (4) Where a *scheme* invests in an index based *derivative*, provided the relevant index falls within *CIS 5.2.33R* (Relevant indices) the underlying constituents of the index do not have to be taken into account for the purposes of *CIS 5.2.13R* (Spread: general) and *CIS 5.2.14R* (Spread: government and public securities).
- (5) The relaxation in (4) is subject to the *authorised fund manager* taking account of *CIS 5.2.3R* (Prudent spread of risk).

Permitted transactions (derivatives and forwards)

5.2.22

- R (1) A transaction in a *derivative* must:
- (a) be in an *approved derivative*; or
 - (b) be one which complies with *CIS 5.2.25R* (OTC transactions in derivatives).
- (2) A transaction in a *derivative* must have the underlying consisting of any or all of the following to which the *scheme* is *dedicated*:
- (a) *transferable securities*;
 - (b) money market instruments permitted under *CIS 5.2.20R* (Investment in money market instruments);
 - (c) *deposits* permitted under *CIS 5.2.28R* (Investment in deposits);

- (d) *derivatives* permitted under this *rule* (CIS 5.2.22R);
 - (e) *collective investment scheme units* permitted under CIS 5.2.15R (Investment in collective investment schemes);
 - (f) financial indices;
 - (g) interest rates;
 - (h) foreign exchange rates; and
 - (i) currencies.
- (3) A transaction in an *approved derivative* must be effected on or under the *rules* of an *eligible derivatives* market.
 - (4) A transaction in a *derivative* must not cause a *scheme* to diverge from its investment objectives as stated in the *instrument constituting the scheme* and the most recently published *prospectus*.
 - (5) A transaction in a *derivative* must not be entered into if the intended effect is to create the potential for an uncovered sale of one or more, *transferable securities, money market instruments, units in collective investment schemes, or derivatives*.
 - (6) Any forward transaction must be with an *approved counterparty* under CIS 5.2.25R(2) (OTC transactions in derivatives).

Transactions for the purchase of property

- 5.2.23 R A *derivative* or forward transaction (which is a permitted transaction

under *CIS* 5.2.22R (Permitted transactions (derivatives and forwards)) which will or could lead to the delivery of property for the account of the *ICVC* or to the *trustee* for the account of the *AUT* may be entered into only if:

- (1) that property can be held for the account of the *ICVC* or can be held by the *AUT*; and
- (2) the *authorised fund manager* having taken reasonable care determines that delivery of the property under the transaction will not occur or will not lead to a breach of the *rules* in this sourcebook.

Requirements to cover sales

- 5.2.24 R (1) No agreement by or on behalf of an *ICVC* or on behalf of an *AUT* to dispose of property or rights may be made:
- (a) unless the obligation to make the disposal and any other similar obligation could immediately be honoured by the *authorised fund* by delivery of property or the assignment (or, in Scotland, assignation) of rights; and
 - (b) the property and rights at (a) are owned by the *authorised fund* at the time of the agreement.
- (2) Paragraph (1) does not apply to a *deposit*.

OTC transactions in derivatives

- 5.2.25 R Any transaction in an *OTC derivative* under *CIS* 5.2.22R(1)(b) must be:
- (1) in a *future* or an *option* or a *contract for differences*;

- (2) with an approved counterparty; a counterparty to a transaction in *derivatives* is approved only if the counterparty is:
- (a) an *eligible institution* or an *approved bank*; or
 - (b) a *person* whose *permission* (including any *requirements* or *limitations*), as published in the *FSA Register* or whose *Home State authorisation*, permits it to enter into the transaction as *principal off-exchange*;
- (3) on approved terms; the terms of the transaction in *derivatives* are approved only if, before the transaction is entered into, the *depository* is satisfied that the counterparty has agreed with the *ICVC* or the *manager*:
- (a) to provide a reliable and verifiable valuation in respect of that transaction (which, for *dual-priced AUTs* should be on a *buying* and *selling* basis) at least daily and at any other time at the request of the *ICVC* or *manager*; and
 - (b) that it will, at the request of the *ICVC* or *manager*, enter into a further transaction to *close out* that transaction at any time, at a fair value arrived at under the pricing model or other reliable basis agreed under (4); and
- (4) capable of valuation; a transaction in *derivatives* is capable of valuation only if the *authorised fund manager* having taken reasonable care determines that, throughout the life of the *derivative* (if the transaction is entered into), it will be able to value the *investment* concerned with reasonable accuracy:
- (a) on the basis of the pricing model which has been agreed between the *authorised fund manager* and the *depository*;

or

- (b) on some other reliable basis reflecting an up-to-date market value which has been so agreed.

Risk management: derivatives

5.2.26

- R (1) An *authorised fund manager* must use a risk management process enabling it to monitor and measure as frequently as appropriate the risk of a *scheme's derivatives* positions and their contribution to the overall risk profile of the *scheme*.
- (2) The following details of the risk management process must be notified by the *authorised fund manager* to the *FSA* in advance of the use of the process as required by (1) along with advance notification of any material alteration to such details:
- (a) the methods for estimating risks in *derivative* transactions; and
 - (b) the types of derivatives to be used within the *scheme* together with their underlying risks and any relevant quantitative limits.

5.2.27

Risk management process

- G (1) The risk management process should take account of the investment objectives and policy of the *scheme* as stated in the most recent *prospectus*.
- (2) The *depository* should take reasonable care to review the appropriateness of the risk management process in line with its duties under *CIS 7.5.3R* (Duties of the ACD and depository: investment and borrowing powers) or *CIS 7.10.5R* (Duties of the manager and trustee: investment and borrowing powers), as

appropriate.

- (3) An *authorised fund manager* is expected to demonstrate more sophistication in its risk management process for a *scheme* with a complex risk profile than for one with a simple risk profile. In particular the risk management process should take account of any characteristic of non-linear dependence in the value of a position to its underlying.
- (4) An *authorised fund manager* should take reasonable care to establish and maintain such systems and controls as are appropriate to its business as required by SYSC 3.1 (Systems and controls).
- (5) The risk management process should enable the analysis required by CIS 5.2.26R to be undertaken at least daily or at each *valuation point* whichever is the more frequent.

Investment in deposits

- 5.2.28 R A *UCITS scheme* may invest in *deposits* only with an *approved bank* and which are repayable on demand or have the right to be withdrawn, and maturing in no more than 12 *months*.

Significant influence for ICVCs

- 5.2.29 R (1) An *ICVC* must not acquire *transferable securities* issued by a *body corporate* and carrying rights to vote (whether or not on substantially all matters) at a general meeting of that *body corporate* if:
- (a) immediately before the acquisition, the aggregate of any such *securities* held by the *ICVC* gives the *ICVC* power significantly to influence the conduct of business of that *body corporate*; or

(b) the acquisition gives the *ICVC* that power.

- (2) For the purpose of (1), an *ICVC* is to be taken to have power significantly to influence the conduct of business of a *body corporate* if it can, because of the *transferable securities* held by it, exercise or control the exercise of 20% or more of the voting rights in that *body corporate* (disregarding for this purpose any temporary suspension of voting rights in respect of the *transferable securities* of that *body corporate*).

Significant influence for managers of AUTs

5.2.30 R (1) A *manager* must not acquire, or cause to be acquired for an *AUT* of which it is the *manager*, *transferable securities* issued by a *body corporate* and carrying rights to vote (whether or not on substantially all matters) at a general meeting of the *body corporate* if:

- (a) immediately before the acquisition, the aggregate of any such *securities* held for that *AUT*, taken together with any such *securities* already held for other *AUTs* of which it is also the *manager*, gives the *manager* power significantly to influence the conduct of business of that *body corporate*; or

(b) the acquisition gives the *manager* that power.

- (2) In (1), a *manager* is to be taken to have power significantly to influence the conduct of business of a *body corporate* if it can, because of the *transferable securities* held for all the *AUTs* of which it is the *manager*, exercise or control the exercise of 20% or more of the voting rights in that *body corporate* (disregarding for this purpose any temporary suspension of

voting rights in respect of the *transferable securities* of that *body corporate*).

Concentration

5.2.31

R A *UCITS scheme*:

- (1) must not acquire *transferable securities* (other than *debt securities*) which:
 - (a) do not carry a right to vote on any matter at a general meeting of the *body corporate* that issued them; and
 - (b) represent more than 10% of those *securities* issued by that *body corporate*;
- (2) must not acquire more than 10% of the *debt securities* issued by any single body;
- (3) must not acquire more than 25% of the *units* in a *collective investment scheme*;
- (4) must not acquire more than 10% of the money market instruments issued by any single body; and
- (5) need not comply with the limits in (2), (3) and (4) if, at the time of acquisition, the net amount in issue of the relevant *investment* cannot be calculated.

Schemes replicating an index

5.2.32

R (1) A *UCITS scheme* may invest up to 20% in value of the *scheme property* in *shares* and *debentures* which are issued by the same body where the investment policy of that *scheme* as stated in the most recently published *prospectus* is to replicate the

composition of a relevant index as defined in *CIS 5.2.34R*
(Relevant indices).

- (2) The limit in (1) can be raised for a particular *UCITS scheme* up to 35% in value of the *scheme property*, but only in respect of one body and where justified by exceptional market conditions.

Index replication

- 5.2.33 G In the case of a *scheme* replicating an index under *CIS 5.2.32R* (Schemes replicating an index) the *scheme property* need not consist of the exact composition and weighting of the underlying in the relevant index where deviation from this is expedient for reasons of poor liquidity or excessive cost to the *scheme* in trading in an underlying *investment*.

Relevant indices

- 5.2.34 R The indices referred to in *CIS 5.2.32R* (Schemes replicating an index) are those which satisfy the following criteria:

- (1) the composition is sufficiently diversified;
- (2) the index is a representative benchmark for the market to which it refers; and
- (3) the index is published in an appropriate manner.

Derivative exposure

Application

- 5.3 R This section (*CIS 5.3*) applies to *authorised fund managers* of *UCITS schemes* except *CIS 5.3.4*, which applies to:

- (1) *ICVCs* which are *UCITS schemes*; and

(2) to trustees of AUTs in respect of UCITS schemes.

Introduction

- 5.3.1 G (1) A *scheme* may invest in *derivatives* and forward transactions as long as the exposure to which the *scheme* is committed by that transaction itself is suitably covered from within its *scheme property*. Exposure will include any *initial outlay* in respect of that transaction.
- 5.3.2 (2) Cover ensures that a *scheme* is not exposed to the risk of loss of property, including *money*, to an extent greater than the net value of the *scheme property*. Therefore, a *scheme* must hold *scheme property* sufficient in value or amount to match the exposure arising from a *derivative* obligation to which the *scheme* is committed. CIS 5.3.3R (Cover for transactions in derivatives and forward transactions) sets out detailed requirements for cover of a *scheme*.
- (3) In applying this section (CIS 5.3), it may help to regard a *future* as an obligation to which the *scheme* is committed (in that, unless closed out, the *future* will require something to be delivered, or accepted and paid for); a written *option* as an obligation to which the *scheme* is committed (in that it gives the right of potential exercise to another thereby creating exposure); and a bought *option* as a right (in that the purchaser can, but need not, exercise the right to require the writer to deliver and accept and pay for something).
- (4) In accordance with CIS 5.2.7R(2)(b) (Chapter to be construed as a whole), cover used in respect of one transaction in *derivatives* or forward transaction must not be used for cover in respect of another transaction in *derivatives* or a forward transaction.

- (5) *CIS 5.3.3R - CIS 5.3.5R* sets out requirements for "cover" of a *UCITS scheme* in respect of *derivative* transactions.

Cover for transactions in derivatives and forward transactions

- 5.3.3 R (1) A transaction in *derivatives* or forward transaction is to be entered into only if the maximum exposure, in terms of the *principal* or *notional principal* created by the transaction to which the *scheme* is or may be committed by another *person* is covered globally under (2).
- (2) Exposure is covered globally if adequate cover from within the *scheme property* is available to meet the *scheme's* total exposure, taking into account the value of the underlying assets, any reasonably foreseeable market movement, counterparty risk, and the time available to liquidate any positions.
- (3) Cash not yet received into the *scheme property* but due to be received within one *month* is available as cover for the purposes of (2).
- (4) Property the subject of a transaction under *CIS 5.4* (Stock lending) is only available for cover if the *authorised fund manager* has taken reasonable care to determine that it is obtainable (by return or re-acquisition) in time to meet the obligation for which cover is required.
- (5) The global exposure relating to *derivatives* held in a *UCITS scheme* may not exceed the net value of the *scheme property*.

Borrowing

- 5.3.4 R (1) Cash obtained from borrowing, and borrowing which the

authorised fund manager reasonably regards an *eligible institution* or an *approved bank* to be committed to provide, is available for cover under *CIS 5.3.3R* (Cover for transactions in derivatives and forward transactions) as long as the normal limits on borrowing (as to which see *CIS 5.5.3R* (General power to borrow) and *CIS 5.5.4R* (Borrowing limits)) are observed.

(2) Where, for the purposes of this section (*CIS 5.3*), the *ICVC* or the *trustee* for the account of the *AUT* on the instructions of the *manager*:

(a) borrows an amount of currency from an *eligible institution* or an *approved bank*; and

(b) keeps an amount in another currency, at least equal to the borrowing for the time being in (a), on *deposit* with the lender (or his agent or nominee);

then this section (*CIS 5.3*) applies as if the borrowed currency, and not the deposited currency, were part of the *scheme property*, and the normal limits on borrowing under *CIS 5.5.3R* and *CIS 5.5.4R* do not apply to that borrowing.

Continuing nature of limits and requirements

5.3.5 R An *authorised fund manager* must, (as frequently as necessary), recalculate the amount of cover required in respect of *derivatives* and forward positions already in existence under this section (*CIS 5.3*). *Derivatives* and rights under forward transactions under this section may be retained in the *scheme property* only so long as they remain covered globally under *CIS 5.3.3R* (Cover for transactions in derivatives and forward transactions).

5.4 Stock lending

Application

- 5.4.1 R This section (*CIS 5.4*) applies to *depositories of authorised funds* which are *UCITS schemes*, except:
- (1) *CIS 5.4.3R* (Stock lending: general), which applies to *ICVCs* which are *UCITS schemes*, or to *managers of AUTs* which are *UCITS schemes*; and
 - (2) in the case of *ICVCs*, *CIS 5.4.4R* (Permitted stock lending) which applies to *ICVCs* which are *UCITS schemes* if the *ICVC* enters into the *stock lending* agreement.

Stock lending permitted under this section (*CIS 5.4*)

- 5.4.2 G (1) This section (*CIS 5.4*) permits the generation of additional income for the benefit of the *authorised fund*, and hence for its investors, by entry into *stock lending* transactions for the account of the *authorised fund*.
- (2) The specific method of *stock lending* permitted in this section is in fact not a transaction which is a loan in the normal sense. Rather it is an arrangement of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992, under which the lender transfers *securities* to the borrower otherwise than by way of *sale* and the borrower is to transfer those *securities*, or *securities* of the same type and amount, back to the lender at a later date. In accordance with good market practice, a separate transaction by way of transfer of assets is also involved for the purpose of providing *collateral* to the "lender" to cover him against the risk that the future transfer back of the *securities* may not be satisfactorily completed.

Stock lending: general

- 5.4.3 R The *stock lending* permitted by this section (*CIS 5.4*) may be exercised by an *authorised fund* when it reasonably appears to the *ICVC* or to the *manager* to be appropriate to do so with a view to generating additional income for the *authorised fund* with an acceptable degree of risk.

Permitted stock lending

- 5.4.4 R (1) An *ICVC*, or the *depository* at the request of the *ICVC*, or a the *trustee* at the request of the *manager*, may enter into a *stock lending* arrangement of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992 (without extension by section 263C), but only if:
- (a) all the terms of the agreement under which *securities* are to be reacquired by the *depository* for the account of the *ICVC* or by the *trustee*, are in a form which is acceptable to the *depository* or to the *trustee* and are in accordance with good market practice;
 - (b) the *counterparty* is an *authorised person* or a *person* authorised by a *Home State regulator*; and
 - (c) *collateral* is obtained to secure the obligation of the *counterparty* under the terms referred to in (a) and the *collateral* is:
 - (i) acceptable to the *depository*;
 - (ii) adequate within *CIS 5.4.6R(1)*; and
 - (iii) sufficiently immediate within *CIS 5.4.6R(2)*.

- (2) The *counterparty* for the purpose of (1) is the *person* who is obliged under the agreement referred to in (1)(a) to transfer to the *depository* the *securities* transferred by the *depository* under the *stock lending* arrangement or *securities* of the same kind.

Stock lending: treatment of collateral

- 5.4.5 G Where a *stock lending* arrangement is entered into, the *scheme property* remains unchanged in terms of value: the *securities* transferred cease to be part of the *scheme property*, but there is obtained in return an obligation on the part of the *counterparty* to transfer back equivalent *securities*. The *depository* will also receive *collateral* to set against the risk of default in transfer, and that *collateral* is equally irrelevant to the valuation of the *scheme property* (because it is transferred against an obligation of equivalent value by way of re-transfer). CIS 5.4.6R accordingly makes provision for the treatment of the *collateral* in that context.

Treatment of collateral

- 5.4.6 R (1) *Collateral* is adequate for the purposes of this section (CIS 5.4) only if it:
- (a) is transferred to the *depository* or its agent;
 - (b) is at least equal in value, at the time of the transfer to the *depository*, to the value of the *securities* transferred by the *depository*; and
 - (c) is in the form of one or more of:
 - (i) cash; or
 - (ii) *government and public securities*; or
 - (iii) a certificate of *deposit*; or

- (iv) a letter of *credit*; or
 - (v) *securities* transferred in *CREST*.
- (2) *Collateral* is sufficiently immediate for the purposes of this section (*CIS 5.4*) if:
- (a) it is transferred before or at the time of the transfer of the *securities* by the *depository*; or
 - (b) the *depository* takes reasonable care to determine at that time that it will be transferred at the latest by the close of business on the *day* of the transfer.
- (3) The *depository* must ensure that the value of the *collateral* at all times is at least equal to the value of the *securities* transferred by the *depository*.
- (4) The duty in (3) may be regarded as satisfied in respect of *collateral* the validity of which is about to expire or has expired where the *depository* takes reasonable care to determine that sufficient *collateral* will again be transferred at the latest by the close of business on the *day* of expiry.
- (5) Any agreement for transfer at a future date of *securities* or of *collateral* (or of the equivalent of either) under this section (*CIS 5.4*) may be regarded, for the purposes of valuation under *CIS 4* (Single-pricing and dealing), *CIS 15* (Dual-pricing and dealing) or this chapter, as an unconditional agreement for the *sale* or transfer of property, whether or not the property is part of the property of the *authorised fund*.

- (6) *Collateral* transferred to the *depository* is part of the *scheme property* for the purposes of the *rules* in this sourcebook, except in the following respects:
 - (a) it does not fall to be included in any valuation for the purposes of *CIS 4* (Single-pricing and dealing), or *CIS 15* (Dual-pricing and dealing) or this chapter, because it is offset under (5) by an obligation to transfer; and
 - (b) it does not count as *scheme property* for any purpose of this chapter other than this section (*CIS 5.4*).
- (7) Paragraph (5) and (6)(a) do not apply to any valuation of *collateral* itself for the purposes of this section (*CIS 5.4*).

Limitation by value

- 5.4.7 R There is no limit on the value of the *scheme property* which may be the subject of *stock lending* transactions within this section (*CIS 5.4*).

Cash, borrowing, lending and other provisions

5.5

Application

- 5.5.1 R (1) *CIS 5.5.2R*(1) and (2) (Cash and near cash) apply to *authorised fund managers*.
- (2) *CIS 5.5.3R* (General power to borrow) applies to *ICVCs* and *trustees* of *AUTs*, except *CIS 5.5.3R*(3) and (4), which apply to *authorised fund managers*.
- (3) *CIS 5.5.4R* (Borrowing limits) applies to *authorised fund managers*.
- (4) *CIS 5.5.5R* (Restrictions on lending of money) applies to

ICVCs or to *managers* and *trustees*, except for *CIS*

5.5.5R(3), which applies to *ICVCs*.

- (5) *CIS* 5.5.6R (Restrictions on lending of property other than money) applies to *ICVCs* or *managers* and *trustees*, except for *CIS* 5.5.6R(4) which applies to *ICVCs* or to *depositories* of *ICVCs*.
- (6) *CIS* 5.5.7R (General power to accept or underwrite placings) applies to *ICVCs* or to *managers*.
- (7) *CIS* 5.5.8R (Guarantees and indemnities) applies to *ICVCs* or *depositories*.

Cash and near cash

5.5.2

- R (1) Cash and *near cash* must not be retained in the *scheme property* except to the extent that, where this may reasonably be regarded as necessary in order to enable:
- (a) the pursuit of the *scheme's* investment objectives; or
 - (b) *redemption* of *units*; or
 - (c) efficient management of the *authorised fund* in accordance with its investment objectives; or
 - (d) other purposes which may reasonably be regarded as ancillary to the investment objectives of the *authorised fund*.
- (2) During the period of the *initial offer* the *scheme property* may consist of cash and *near cash* without limitation.

General power to borrow

- 5.5.3 R (1) The *ICVC* or *trustee* (on the instructions of the *manager*) may, in accordance with this *rule* (*CIS 5.5.3R*) and *CIS 5.5.4R*, borrow *money* for the use of the *authorised fund* on terms that the borrowing is to be repayable out of the *scheme property*. This power to borrow is subject to the obligation of the *authorised fund* to comply with any restriction in the *instrument constituting the scheme*.
- (2) The *ICVC* or *trustee* may borrow under (1) only from an *eligible institution* or an *approved bank*.
- (3) The *authorised fund manager* must ensure that any borrowing is on a temporary basis and that borrowings are not persistent, and for this purpose the *authorised fund manager* must have regard in particular to:
- (a) the duration of any period of borrowing; and
 - (b) the number of occasions on which resort is had to borrowing in any period.
- (4) In addition to complying with (3), the *authorised fund manager* must ensure that no period of borrowing exceeds three *months*, whether in respect of any specific sum or at all, without the prior consent of the *depository*; the *depository's* consent may be given only on such conditions as appear to the *depository* appropriate to ensure that the borrowing does not cease to be on a temporary basis only.
- (5) This *rule* (*CIS 5.5.3R*) does not apply to "back to back" borrowing under *CIS 5.3.4R(2)* (Borrowing).

- (6) An *ICVC* must not issue any *debenture* unless it acknowledges or creates a borrowing that complies with (1) to (4).

Borrowing limits

- 5.5.4 R (1) The *authorised fund manager* must ensure that the *authorised fund's* borrowing does not, on any *business day*, exceed 10% of the value of the *scheme property*.
- (2) This *rule* (*CIS* 5.5.4R) does not apply to "back to back" borrowing under *CIS* 5.3.4R(2).
- (3) In this *rule* (*CIS* 5.5.4R), "borrowing" includes, as well as borrowing in a conventional manner, any other arrangement (including a combination of *derivatives*) designed to achieve a temporary injection of *money* into the *scheme property* in the expectation that the sum will be repaid.
- (4) For an *ICVC*, borrowing does not include any arrangement for the *ICVC* to pay to a third party (including the *ACD*) any costs which the *ICVC* is entitled to amortise under *CIS* 8.3.4R (Set up costs) and which were paid on behalf of the *ICVC* by the third party.

Restrictions on lending of money

- 5.5.5 R (1) None of the *money* in the *scheme property* of an *authorised fund* may be lent and, for the purposes of this prohibition, *money* is lent by an *authorised fund* if it is paid to a *person* ("the payee") on the basis that it should be repaid, whether or not by the payee.
- (2) Acquiring a *debenture* is not lending for the purposes of (1); nor is the placing of *money* on deposit or in a current account.

- (3) Paragraph (1) does not prevent an *ICVC* from providing an *officer* of the *ICVC* with funds to meet expenditure to be incurred by him for the purposes of the *ICVC* (or for the purposes of enabling him properly to perform his duties as an *officer* of the *ICVC*) or from doing anything to enable an *officer* to avoid incurring such expenditure.

Restrictions on lending of property other than money

- 5.5.6 R (1) The *scheme property* of an *authorised fund* other than *money* must not be lent by way of deposit or otherwise.
- (2) Transactions permitted by *CIS* 5.4 (Stock lending) are not lending for the purposes of (1).
 - (3) The *scheme property* of a *UCITS scheme* must not be mortgaged.
 - (4) Nothing in this *rule* (*CIS* 5.5.6R) prevents the *ICVC* or the *depository* at the request of the *ICVC*, or the *trustee* at the request of the *manager*, from lending, depositing, pledging or charging *scheme property* for *margin* requirements where transactions in *derivatives* or forward transactions are used for the account of the *authorised fund* in accordance with any other of the *rules* in this chapter.

General power to accept or underwrite placings

- 5.5.7 R (1) Any power in this chapter to invest in *transferable securities* may be used for the purpose of entering into transactions to which this *rule* (*CIS* 5.5.7R) applies, subject to compliance with any restriction in the *instrument constituting the scheme*.
- (2) This *rule* (*CIS* 5.5.7R) applies, subject to (3), to any agreement or understanding:

- (a) which is an underwriting or sub-underwriting agreement;
or
 - (b) which contemplates that *securities* will or may be issued or subscribed for or acquired for the account of the *authorised fund*.
- (3) Paragraph (2) does not apply to:
- (a) an *option*; or
 - (b) a *purchase* of a *transferable security* which confers a right:
 - (i) to subscribe for or acquire a *transferable security*; or
 - (ii) to convert one *transferable security* into another.
- (4) The exposure of an *authorised fund* to agreements and understandings within (2) must, on any *business day*:
- (a) be covered under *CIS 5.3.3R* (Cover for transactions in derivatives and forward transactions); and
 - (b) be such that, if all possible obligations arising under them had immediately to be met in full, there would be no breach of any limit in this chapter.

Guarantees and indemnities

- 5.5.8 R (1) An *ICVC* or a *depository* for the account of an *authorised fund* must not provide any guarantee or indemnity in respect of the obligation of any *person*.

- (2) None of the *scheme property* of an *authorised fund* may be used to discharge any obligation arising under a guarantee or indemnity with respect to the obligation of any *person*.
- (3) Paragraphs (1) and (2) do not apply to:
- (a) any indemnity or guarantee given for *margin* requirements where the *derivatives* or forward transactions are being used in accordance with the *rules* in this chapter;
- (b) for an *ICVC*:
- (i) an indemnity falling within the provisions of regulation 62(3) (Exemptions from liability to be void) of the *OEIC Regulations* :
- (ii) an indemnity (other than any provision in it which is void under regulation 62 of the *OEIC regulations*) given to the *depository* against any liability incurred by it as a consequence of the safekeeping of any of the *scheme property* by it or by anyone retained by it to assist it to perform its function of the safekeeping of the *scheme property*; and
- (iii) an indemnity given to a *person* winding up a *scheme* if the indemnity is given for the purposes of arrangements by which the whole or part of the property of that *scheme* becomes the first property of the *ICVC* and the *holders* of *units* in that *scheme* become the first *shareholders* in the *ICVC*; and
- (c) for an *AUT*, an indemnity given to a *person* winding up a

body corporate or other *scheme* in circumstances to which *CIS* 15.2.7R (Creation of units) applies.

Guidance on restricting payments

- 5.5.9 G *CIS* 8.4.1R (Payment of liabilities on transfer of assets) and *CIS* 8.5.5R (Other payments out of scheme property) contain provisions restricting payments out of *scheme property*.

The old *CIS* Chapter 5 is renumbered 5A, and A is added to all numbers of sections, rules, headings and references to *CIS* 5 rules in the chapter. Chapter 5A is amended as follows:

5A Investment and borrowing powers

5A.1 Introduction

Application

5A.1.1 R (1) This chapter applies in relation to *ICVCs* and *AUTs* which:

(a) are not *UCITS* schemes; or

(b) were *UCITS* schemes when their *authorisation order* was made and operate under Transitional provision 14.

(2) This section (*CIS* 5A.1) applies to *authorised fund managers* and *depositories* of schemes within (1).

Application guidance

5A.1.2 G ~~The *persons* to whom each respective *rule* and *guidance* in this chapter applies are stated either at the beginning of the *rule* or *guidance* or at the beginning of the section that contains the *rule* or *guidance*.~~

This chapter applies to non-UCITS schemes which are geared futures and options schemes, property schemes, money market schemes, futures and options schemes, fund of funds schemes, umbrella schemes which do not comply with the requirements of the UCITS Directive and feeder fund schemes. This chapter also applies to UCITS schemes within transitional provision 14 (securities schemes, warrant schemes, or an umbrella scheme consisting of sub-funds which would, if separately authorised be a securities scheme or a warrant scheme). Therefore, only the sections relevant to these fund types and the cross references contained within are of application. Cross references to other rules in the relevant section for each fund type should be applied in respect only of that relevant fund type.

Explanation to this chapter

5A.1.4 G (1) ~~Product distinctiveness~~

~~CIS 2.1.4R (Categories of authorised fund) lists the categories of authorised fund. Each authorised fund has distinct characteristics and can therefore only hold certain types of investments. The rules in this chapter outline the permitted investments for each category, and ensure that the distinct character of each authorised fund is maintained.~~

Product Distinctiveness – CIS 2.1.4R (Types of authorised fund) sets out the types of scheme. Each of these authorised fund types has distinct characteristics and can therefore only hold certain types of investments. The rules in this chapter outline the permitted investments for non-UCITS schemes which are of the geared futures and options, property, money market, futures and options, fund of funds, non-UCITS compliant umbrella and feeder fund scheme type and for UCITS schemes within transitional provision 14. This ensures that the distinct character of each authorised fund is maintained.

(2) UCITS directive

~~For securities schemes, warrant schemes and umbrella schemes (consisting of sub funds which would, if separately authorised, be securities schemes or warrant schemes), this chapter sets out the investment and borrowing rules which these authorised funds have to comply with, in order to benefit from a certificate of compliance with the UCITS directive, with a view to enjoying the rights available under that directive.~~

Investment and borrowing powers. This chapter sets out investment and borrowing rules with which the following types of authorised fund must comply:

- (a) geared futures and options schemes;
- (b) property schemes;
- (c) money market schemes;
- (d) futures and options schemes;
- (e) fund of funds schemes;
- (f) feeder funds;
- (g) umbrella schemes which do not comply with the UCITS Directive; and
- (h) UCITS schemes under transitional provision 14.

(3) Permitted investments

The general pattern of this chapter is summarised in CIS 5.1.6G. This table sets out, for each type of authorised fund, or for each sub-fund of an umbrella scheme, the type of investments that each type of authorised fund or sub-fund is permitted to hold (as well as the permitted percentage), and the investment techniques that each type of authorised fund (or sub-fund) is permitted to use.

Transitional provision 14 specifies the periods allowed under UCITS Amending Directive 2001/108/EC for UCITS schemes to continue under the narrower range of UCITS investment powers and more restricted disclosures and thus applies to:

- (a) UCITS schemes authorised on or before the entry into force (13 February 2002) of UCITS Amending Directive 2001/108/EC for a period of 5 years from that entry into force; or
- (b) UCITS schemes authorised after the entry into force of UCITS Amending Directive 2001/108/EC but before the entry into force of the rules in CIS 5A, for a period of two years from entry into force of the UCITS Amending Directive 2001/108/EC; or
- (c) UCITS schemes authorised under the rules in CIS 5A until 2 years from the entry into force of UCITS Amending Directive 2001/108/EC.

Distinct meaning of certain terms

- 5A.1.5 G Terms used in this sourcebook, should be interpreted and used as they are defined. However, because of the distinct nature of investments in which an authorised fund is permitted to invest, some of these terms

are not always used in a way that corresponds with their usage in certain markets, for example, the term “warrants”. In the CIS sourcebook “warrants” has a slightly wider meaning than usually attributed to it in *warrant markets*. The definition of *warrants* reflects this distinction.

5.1.6 G Indicative overview of investment and borrowing powers

This table belongs to CIS 5.1.4G(3).

Category of authorised fund (note 1 and 2)	Securities schemes (CIS-5.4)	Money market schemes (CIS-5.5)	Futures and options schemes (CIS-5.6)	Gearing futures and options schemes (CIS-5.7)	Property schemes (CIS-5.8)	Warrant schemes (CIS-5.9)	Fund of funds schemes (CIS-5.11)	Feeder funds (excluding feeder funds investing in an eligible investment trust) (CIS-5.10)	Feeder funds investing in an eligible investment trust (CIS-5.10)
Investments and investment techniques									
Transferable securities	Yes	80%	Yes	Yes	80%	Yes	NA	NA	Yes
Transferable but not approved securities	10%	NA	10%	10%	10%	10%	NA	NA	No
Government and public securities	Yes	80%	Yes	Yes	35%	Yes	No	No	No
Units	5%	5%	5%	5%	5%	5%	Yes	Yes	No
Warrants	5%	NA	5%	5%	5%	100%	No	No	No
Investment trusts	Yes	No	Yes	Yes	80%	Yes	No	No	Yes
Cash (and near cash)	RRD	Yes	Yes	Yes	RRD	RRD	RRD	RRD	RRD
Derivatives	EPM	EPM	Yes	Yes	EPM	EPM	EPM	No	No
Immovables	No	No	No	No	80%	No	No	No	No
Gold	No	No	10%	10%	No	No	No	No	No
Efficient portfolio management	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Stocklending	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Underwriting	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Borrowing	10%	10%	10%	No	10%	10%	10%	10%	10%
Note 1	<u>Meaning of terms used</u>								
“Yes”	can be invested in without specific upper limit (though there may be limits of other kinds)								

"No"	not available for investment.
A percentage	an upper limit (though there may be limits of other kinds).
"NA"	not generally applicable having regard to the <i>authorised fund's</i> dedication.
"RRD"	permitted if reasonably required for <i>redemption</i> or in the context of the <i>authorised fund's</i> investment objective (see CIS 5.15.2R (Cash and near cash)).
"EPM"	permitted in the context of efficient portfolio management (see CIS 5.13).
Note 2	<i>Umbrella schemes</i>
The <i>umbrella scheme</i> is not covered, but each <i>sub-fund</i> must fall within one column of the table.	

5A.2.12 R Where a reference to an *authorised fund* of a particular category type is made in CIS 5A.5.3R(2)(e) (Money market schemes: general), CIS 5A.6.7R (Investment in collective investment schemes) (for *futures and options schemes*), CIS 5A.7.8R (for *geared futures and options schemes*) or CIS 5A.8.7R (for *property schemes*), that reference is to be treated as a reference also to:

- (1) a *sub-fund* which would, if it were the subject of a separate *authorisation order* be an *authorised fund* of that particular category type; and

...

5A.5.3 R (2) For this purpose, "*money market scheme assets*" means any of:

...

- (b) bills of exchange accepted by an *eligible institution* or an *approved bank*, if repayable within 12 months;

- (c) instruments creating or acknowledging indebtedness which are:

...

- (iii) either *approved securities* or *investments* which are issued by an *eligible institution* or an *approved bank* otherwise than in return for a *deposit* in (a);

- 5A.6.3 R (6) Whenever the total value held on *deposit* of the *scheme property* of a *futures and options scheme* is more than £1 million:
- ...
- (c) the figure of 10% in (a) may be increased to 20% if:
- (i) the *person* is an *eligible institution* or an *approved bank* and is not one of the *persons* referred to in (b); and
- (ii) the amount of the *deposit* does not exceed 10% in value of that *eligible institution's* or an *approved bank's* issued capital and reserves as shown in its most recently published annual accounts.
- 5A.6.6 R (2) With an *approved counterparty*; a *counterparty* to a transaction in *derivatives* is approved only if the *counterparty* is:
- (a) an *eligible institution* or an *approved bank*; or
- ...
- 5A.6.12 R (3) Where, under (b), an *authorised fund manager* decides that a written *option* and a bought *option* should provide mutual cover, the *authorised fund manager* must arrange for the *depository* to deposit and set aside with an *eligible institution* or an *approved bank* the whole amount of the difference between the exercise value of the two *options* (that is the amount which would be payable by or to the *futures and options scheme* on exercise of the *options*) inclusive of any *margin* requirements of the exchange. That amount must not be used for the purposes of providing cover, other than under this paragraph (f), under the *rules* of this chapter.

5A.6.13 R (1) Where the purchase of an uncovered *option* is proposed in reliance on *CIS 5A.6.3R(4)* (Futures and options schemes: general), the *authorised fund manager* must arrange for the *depository* to *deposit* and set aside with an *eligible institution* or an *approved bank* any amount by which 5% of the exercise value of the *option* (that is the amount which would be payable by the *futures and options scheme* on exercise of the *option*) exceeds the amount paid by way of *premium*. That excess (if any) must not be used for the purposes of providing cover under the *rules* in this chapter.

5A.6.14 R (1) Cash obtained by borrowing, and borrowings which the *authorised fund manager* reasonably regards an *eligible institution* or an *approved bank* to be committed to provide, are available for cover under *CIS 5A.6.9R* (Cover for transactions in derivatives and forward transactions) as long as the normal limits on borrowing (as to which see *CIS 5A.15.3R* (General power to borrow) and *CIS 5A.15.4R* (Borrowing limits)) are observed.

(2) Where, for the purposes of this section (*CIS 5A.6*), the *ICVC* or the *trustee* for the account of the *AUT* on the instructions of the *manager*:

(a) borrows an amount of currency from an *eligible institution* or an *approved bank*; and

...

5A.7.4 R (4) The *authorised fund manager* must arrange for the *depository* to *deposit* and set aside with an *eligible institution* or an *approved bank* the amounts for the time being required by (6), (7), (8) and (9), and these amounts must not be used for the

purpose of providing cover under the *rules* in this chapter.

5A.7.7 R (3) Wherever the total value held on *deposit* of the *scheme property* of a *geared futures and options scheme* is more than £1 million:

...

(c) the figure of 10% in (5) may be increased to 20% if:

(i) the *person* is an *eligible institution* or an approved bank and is not one of the *persons* referred to in (b);
and

(ii) the amount of the *deposit* does not exceed 10% of that *eligible institution's* or an approved bank's issued capital and reserves as shown in its most recently published annual accounts.

5A.13.12 R (1) Cash obtained by borrowing, and borrowings which the *authorised fund manager* reasonably regards an *eligible institution* or an approved bank to be committed to provide, are available for cover under *CIS 5A.13.8R* as long as the normal limits on borrowing (as to which see *CIS 5A.15.3R* (General power to borrow) and *CIS 5A.15.4R* (Borrowing limits)) are observed.

(2) Where, for the purposes of this section (*CIS 5.13*), the *ICVC* or the *trustee* for the account of the *AUT* with the instructions of the *manager*:

(a) borrows an amount of currency from an *eligible institution* or an approved bank; and

...

- 5A.15.3 R (2) The *ICVC* or *trustee* may borrow under (1) only from an *eligible institution or an approved bank*.
- 7.4.1 R (1) The *depository* must take reasonable care to ensure that:
 ...
 (c) decisions about the constituents of the *scheme property* do not cause an infringement of *CIS 5 or CIS 5A* (Investment and borrowing powers).
- 7.5.1 R (2) Where the *depository* is of the opinion that a particular acquisition or disposal of property for the account of the *ICVC* exceeds the powers conferred on the *ICVC* by the *rules* in this sourcebook (and in particular *CIS 5 or CIS 5A* (Investment and borrowing powers)), the *depository* may require the *ACD* to cancel the transaction or make a corresponding disposal or acquisition to secure restoration of the previous situation and to meet any resulting loss or expense.
- 7.5.3 R (1) The *ACD* must take all reasonable steps and exercise due diligence to avoid the *scheme property* being used or invested contrary to any provision in *CIS 5 or CIS 5A* (Investment and borrowing powers), except to the extent permitted by (6)(c).
 ...
 (3) The *ACD* must, immediately upon becoming aware of any breach of any provision in *CIS 5 or CIS 5A*, take action, at its own expense, to rectify that breach, unless the breach occurred as the result of a circumstance of one of the types described in (5) and (6).
 (4) When this paragraph (4) applies as a result of (5) or (6), the *ACD* must take the steps necessary to ensure a restoration of compliance with *CIS 5 or CIS 5A* as soon as is reasonably practicable having regard to the interests of the *shareholders* and, in any event, within the period specified in (8) or, when

applicable, (9).

(5) Paragraph (4) applies:

(a) where the *scheme property* is used or invested at any time contrary to any provision of *CIS 5* or *CIS 5A* (other than a provision excusing a failure to comply on a temporary basis); and

...

(6) (a) Paragraph (4) applies to a transaction ("subsequent transaction") deriving from a right (such as the right to convert stock or subscribe to a rights issue) attributable to an *investment* ('original investment') of the *ICVC* if:

(i) the subsequent transaction, but for this *rule* (*CIS 7.5.3R*) would constitute a breach of *CIS 5* or *CIS 5A*; and

...

(c) Nothing in *CIS 5* or *CIS 5A* prevents the *ICVC* from entering into a transaction of the type described in (a) provided that the *ACD* obtains the prior written consent of the *depository*.

...

(8) (b) where the transaction in question was a transaction in *derivatives* or a forward transaction under ~~*CIS 5.6*~~ (~~*Futures and options schemes*~~) *CIS 5.2.22R* (*Permitted transactions (derivatives and forwards)*) or *CIS 5A.6* (~~*Futures and options schemes*~~) or ~~*CIS 5.7*~~ *CIS 5.7A* (*Geared futures and options schemes*), until the close of business five *business days* later;

- (c) where the transaction in question was entered into ~~under CIS 5.13R (Efficient portfolio management)~~ for hedging purposes under CIS 5.2.22R (Permitted transactions (derivatives and forwards)) or under CIS 5A.13R (Efficient portfolio management), until the close of business five *business days* later; and

...

7.6.3 R (1) The *ACD*, any other *director* and the *depository*, must respectively take all reasonable steps to ensure that a transaction within any of (a) to (f) is not entered into:

- (a) The placing of cash forming part of the *scheme property* in any current, *deposit* or loan account with an *affected person* unless the *affected person* is an *eligible institution* or an *approved bank* and the arm's length requirement in (2) is satisfied;
- (b) The lending of *money* by an *affected person* to, or for the account of, the *ICVC*, unless the *affected person* is an *eligible institution* or an *approved bank*, and the arm's length requirement in (2) is satisfied;
- (c) the *sale* of, or dealing in, property by an *affected person*, to, or with, the *ICVC* (or the *depository* for the account of the *ICVC*), unless ~~(4)~~ (3) applies; and for the purpose of this paragraph (c), a *sale* includes any lease or other transaction under which movable or immovable property is made available by the *ICVC*;

7.6.3 R (1) (f) transactions within CIS 5.14 (Stock lending) or CIS 5A.14 (Stock lending) by an *affected person* with, or in relation to, the *ICVC* unless the arm's length requirement in (2) is

satisfied.

- 7.9.1 R (1) The *trustee* must take reasonable care to ensure:
- (a) except in relation to *CIS 5* or *CIS 5A* (Investment and borrowing powers), and subject to (4) and (5), that the *AUT* is managed by the *manager* in accordance with *CIS 7.8.1R* (Management duties); and
 - (b) in relation to *CIS 5* or *CIS 5A* (Investment and borrowing powers), that decisions about the constituents of the *scheme property* do not cause an infringement of *CIS 5* or *CIS 5A* as appropriate.
- 7.9.3 R (1) The *trustee* must inform the *FSA* immediately upon becoming aware of any circumstance as a result of which there is no longer certainty that:
- (a) except in relation to *CIS 5* or *CIS 5A* (Investment and borrowing powers), the *AUT* is managed by the *manager* in accordance with *CIS 7.8.1R(1)* (Management duties); and
 - (b) decisions about the constituents of the *scheme property* do not cause an infringement of *CIS 5* or *CIS 5A*;
- 7.10.2 R (2) Where the *trustee* is of the opinion that a particular acquisition or disposal of property for the account of the *AUT* by the *manager* exceeds the powers conferred on the *manager* by the *rules* in this sourcebook (and in particular *CIS 5* or *CIS 5A*), the *trustee* may require the *manager* to cancel the transaction or make a corresponding acquisition or disposal to secure restoration of the previous situation and to meet any resulting

loss or expense.

- 7.10.3 R (1) The *manager* must take all reasonable steps and exercise all due diligence to avoid the *scheme property* being used or invested contrary to any provision in *CIS 5* or *CIS 5A* (Investment and borrowing powers), except to the extent permitted by (6)(c).
- ...
- (3) The *manager* must, immediately upon becoming aware of any breach of any provision in *CIS 5* or *CIS 5A*, take action, at its own expense, to rectify that breach, unless the breach occurred as a result of a circumstance of one of the types described in (5) and (6).
- (4) When this paragraph (4) applies, as a result of (5) or (6), the *manager* must take the steps necessary to ensure a restoration of compliance with *CIS 5* or *CIS 5A* as soon as is reasonably practicable having regard to the interests of the *unit holders* and, in any event, within the period specified in (8) or, when applicable, (9).
- (5) Paragraph (4) applies:
- (a) where the *scheme property* is used or invested at any time contrary to any provision of *CIS 5* or *CIS 5A* (other than a provision excusing a failure to comply on a temporary basis); and
- ...

- (6) (a) Paragraph (4) applies to a transaction...
- (i) the subsequent transaction, but for this *rule* *CIS 7.10.3R*, would constitute a breach of *CIS 5* or *CIS 5A*; and
- ...
- (c) Nothing in *CIS 5* or *CIS 5A* prevents the *manager* from entering into a transaction of the type described in (a) provided that it has obtained the prior written consent of the *trustee*.

- ...
- (8) (b) where the transaction in question was a transaction in derivatives or a forward transaction under ~~*CIS 5.6R*~~ *CIS 5A.6* (Futures and options schemes) or *CIS 5A.7* (Geared futures and options schemes) or *CIS 5*, until the close of business five business days later;
- (c) where the transaction in question was entered into under ~~*CIS 5.13R*~~ *CIS 5A.13R* (Efficient portfolio management), until the close of business five *business days* later; and

...

7.10.6 R (1) The *manager* and *trustee* must respectively...

- (a) the placing of cash forming part of the *scheme property* or standing to the credit of the *distribution account* in any current, *deposit* or loan account with an *affected person* unless the affected person is an *eligible institution* or an *approved bank* and the arms length requirement in (2) is satisfied;
- (b) the lending of *money* by an *affected person* to, or for the account of, the *AUT* unless the *affected person* is an *eligible institution* or an *approved bank*, and the arm's

length requirement in (2) is satisfied;

...

- (f) transactions within ~~CIS 5.14~~ CIS 5A.14 (Stock lending) or CIS 5.4 in relation to the AUT unless the arm's length requirement in (2) is satisfied.

Annex 1 G

Valuation and Pricing of authorised funds

1 Table This table belongs to {CIS 7G}

...

Investment and borrowing powers/compliance

- (9) Procedures should be in place to monitor the applicable *rules* in *CIS 5* or *CIS 5A* and, if breaches occur, to ensure they are rectified in accordance with *CIS 7.5.3R* or *CIS 7.10.3R*.

8.1.3 R Table Table of application

This table belongs to *CIS 8.1.1R*

Paragraph or section number	<i>ICVC</i>	<i>ACD</i>	<i>DEPOSITARY OF AN ICVC</i>	<i>MANAGER</i>	<i>TRUSTEE</i>
8.1	X	X	X	X	X
8.2.1R		X		X(S)	
8.2.2R		X		X(S)	
8.2.3R		X			
8.2.4R		X			
8.2.5R		X		X(s)	
8.2.6R		X		X(s)	
8.2.7R		X			
8.2.8R(1) and (2)		X			
8.2.8R(3)				X(s)	
8.3.1R – 8.3.2R		X			
8.3.3R	X	X			
8.3.4R	X	X			

8.3.5R(1)–(3)	X	X			
8.3.5R(4)	X	X	X		
8.4.1R	X	X	X	X	X
8.4.2R	X	X	X	X	X
8.5.1R				X	
8.5.2R(1) to (6)				X(s)	
8.5.2R(7)				X(s)	X(s)
8.5.2R(8)				X(s)	
8.5.3R				X(s)	
8.5.4R				X	X
8.5.5R to 8.5.7R				X	X
Note: "X" means "applies". "X(s)" means "applies to the <i>manager or trustee</i> of a <i>single-priced AUT only</i> ".					

8.2.6 R In the case of an *ICVC* or a *single-priced AUT*, not less than 90 days before the introduction or increase of any payment under *CIS 8.2.4R* or *CIS 8.2.5R*, or of any *remuneration* under *CIS 3.5.2R(13)(2), (3)* (within the maximum level stated in the *prospectus*), the *authorised fund manager* must:

(1) Give written notice of that introduction or increase and of the date of its commencement:

...

(b) (in the case of *remuneration* of the *ACD* or the *depository* or any third party or any affected person payable out of the *scheme property*) to all *shareholders*; and

...

Remuneration of the trustee and reimbursement of the trustees expenses

8.5.4 R (1) No payment may be made to the *trustee* out of the *scheme property*, whether by way of reimbursement of expenses or otherwise, except:

(a) *Remuneration* for the *trustee* in respect of its services and

in respect of which the following have been stated in the *prospectus*:

- (i) the actual amount or rate of the *remuneration* together with the current maximum (or how ~~this is~~ these are determined);

...

...

- (3) In the case of a *dual-priced AUT* the actual amount or rate of the *trustee's* or any third party's or any *affected person's* *remuneration* maybe raised up to any maximum stated in the *prospectus* by the *authorised fund manager* using the procedure in *CIS 8.2.6R(1)*.

- 9.2.11 R (1) Where the *scheme property* of an *AUT* is used in *stock lending* transactions under *CIS 5.14* or *CIS 5A.14*, any income derived from the transaction must form part of the *scheme property*, after deduction of:

- 10.3.2 G This section sets out the contents of each annual and half-yearly report. It sets the scene for *CIS 10.4* (Information to be included in annual and half-yearly reports). That section outlines some more detailed information, which must be included in reports on *authorised funds*. In particular, it distinguishes between requirements to be included in reports on *umbrella schemes* and reports on other ~~categories~~ types of *authorised funds*.

- 10.4.2 R The matters set out in (1) – (156) must be included in each report of the *directors* (for a report on an *ICVC*) and in each report of the *manager* (for a report on an *AUT*), except where otherwise indicated:

- 10.4.2 R (5) a statement as to which of the ~~categories~~ types of *authorised fund* in *CIS 2.1.4R* (Constitution) the *authorised fund* belongs;

10.4.2 R (16) In the case of a *UCITS scheme* which invests a substantial proportion of its assets in other *collective investment schemes*, a statement as to the maximum proportion of management fees charged to the *scheme* itself and to other *collective investment schemes* in which that *scheme* invests.

10.4.3 R (2) *CIS 10.4.2R(5)* applies as if it required a statement in respect of each *sub-fund* that it has investment powers equivalent to those of an *authorised fund* of a stated category type under *CIS 2.1.4R (Constitution)*.

12 Special Provisions for Certain ~~Categories~~ Types of Scheme

12.4.2 R (1) A *fund of funds scheme* must be valued no less frequently than if it were the relevant category type of *scheme* by type of investment under *CIS 5A.11.4R (Eligible combinations of scheme)* and the *authorised fund manager* of a *fund of funds scheme* must *deal* on the basis of *forward prices* if that is required for the relevant category type of *scheme* under *CIS 5A.11.4R*.

(2) Where a *fund of funds scheme* invests in *money market schemes* (within *CIS 5A.5 (Money market schemes)*), (1) applies only if the *scheme* does not invest in any other category type of *scheme*.

12.5.7 R ~~In relation to an *authorised fund* which is an *umbrella scheme* the provisions in *CIS 5* apply to each *sub-fund* as they would for an *authorised fund*, except *CIS 5.2.13R (Significant influence for ICVCs)*, *CIS 5.2.14R (Significant influence for managers of AUTs)* and *CIS 5.2.15R (Concentration)* which will apply only at the level of the *umbrella scheme*.~~

(1) In relation to an *authorised fund* which is an *umbrella scheme* under the rules in *CIS 5A*, the provisions in *CIS 5A* apply to

each sub-fund as they would for an authorised fund except the following rules which will apply only at the level of the umbrella scheme:

- (a) CIS 5A.2.13R (Significant influence for ICVCs);
- (b) CIS 5A.2.14R (Significant influence for managers of AUTs); and
- (c) CIS 5A.2.15R (Concentration), but sub-funds in an umbrella scheme which are equivalent to a fund of funds scheme or a feeder fund are to be disregarded in this calculation.

(2) In relation to an authorised fund which is an umbrella scheme under the rules in CIS 5, the provisions in CIS 5 apply to each sub-fund as they would for an authorised fund, except the following rules which will apply at the level of the umbrella scheme:

- (a) CIS 5.2.29R (Significant influence for ICVCs);
- (b) CIS 5.2.30R (Significant influence for managers of AUTs); and
- (c) CIS 5.2.31R (Concentration).

12.5.8 G Main provisions relating specifically to *umbrella schemes*
This table belongs to CIS 12.5.6G.

Rule/Guidance (CIS)	Subject matter
----------------------------	-----------------------

2.4.6(2)R	Rights of <i>share classes</i>
3.5.2(24)R	Information to be contained in the <i>prospectus (umbrella schemes)</i>
4.4.3(1)	<i>Authorised fund manager's obligation to sell</i>
4.7.4(2)R	Forward and historic pricing (single-pricing)
5.1.4(3)G	Explanation of <i>CIS 5</i>
Table 5.1.6G Note 2	Investment powers
5A.2.12R	Investment in other <i>€IS collective investment schemes</i>
5A.2.16G	Significant influence and concentration
5A.12R	General investment powers and restrictions
8.2.8R	Fee payable on switching
10.3.3(2) and (3)R; 10.3.4(2) & (3)R;	Annual and half-yearly reports
10.4.2(15) and (16)R and 10.4.3R	Report of the <i>directors/manager</i>
10.4.8R	Report of the auditor
10.5.2R(3)	Publication of reports
11.5.2R	<i>Schemes of arrangement</i>
13.1.3R(9)	Suspension and resumption of <i>dealings</i>
14.3R	Termination of a <i>sub-fund</i>
15.4.3R	<i>Manager's obligation to sell</i>
15.7.4R	Forward and historic pricing (dual-pricing)

14.4.2 R (1) (a) *CIS 4* (Single pricing and dealing) or *CIS 15* (Dual pricing and dealing) whichever is applicable and *CIS 5* or *CIS 5A* (Investment and borrowing powers) cease to apply to the *AUT*.

15.3.4 R (3) If at any *valuation point*, the *manager* has any outstanding obligation to *sell units* of any *class*, then it must instruct the *trustee*, before the earlier of:

(a) the expiry of two hours since the *valuation point*; or

(b) the next *valuation point*;

to *issue units* of the *class* in such number as will at least enable the *manager* to fulfil that obligation immediately, (whether from the *units* so issued or from other *units* of that *class* which it owned immediately before the *valuation point* (or *notified point* if there is one)).

15.8.2 G (2) *CIS 15.8.4R* contains the detailed *rules* for valuation of the *scheme property* by the *manager*. The Table is subject to other *rules* (see *CIS 5.2.5R* (Valuation) or *CIS 5A.2.5R* (Valuation) and *CIS 12.3* (Property schemes)).

15.8.4 R Table Table 15.8R Valuation

This table belongs to *CIS 15.8.3R*

Section 5: Issue Basis		
...		
23.	The valuation of property for that part of the valuation which is on a creation basis is as follows:	
	Property	To be valued at
	(a) Cash	nominal value

	(b)	Amounts held in current and deposit accounts	nominal value
	(c)	Property which is not within (a), (b) or (d):	
	(i)	if <i>units</i> in an <i>AUT</i> to which <i>CIS 15</i> (Dual-pricing and dealing) applies	except where Note 1 applies, the most recent maximum <i>sale</i> price less any expected discount (plus <i>dealing</i> costs) [Note 2]
	(ii)	if <i>shares</i> in an <i>ICVC</i> or <i>units</i> of an <i>AUT</i> to which <i>CIS 4</i> (Single-pricing and dealing) applies	the most recent price (plus <i>dealing</i> costs) [Notes 2 and 3]
	(iii)	if any other <i>investment</i>	best available market <i>dealing</i> offer price on the most appropriate market in a standard size (plus <i>dealing</i> costs) [Note 2]
	(iv)	if other property, or no price exists under (i), (ii) or <u>(iii)</u> .	<i>manager's</i> reasonable estimate of a buyer's price (plus <i>dealing</i> costs) [Notes 2 and 4]

Notes
8. If the property is an <i>OTC</i> transaction in <i>derivatives</i> , use the relevant valuation referred to in <u><i>CIS 5.2.25</i> (OTC transactions in derivatives)</u> or <u><i>CIS 5A.6.6R</i> (OTC transactions in derivatives)</u> .

Schedule 2

CIS sourcebook - Notification requirements

In table G (2) - Notification requirements

After *CIS 3.2.2R*, insert the following:

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<p><i>CIS</i> 5.2.26R(2)</p>	<p>Risk management process and any material alteration to it</p>	<p>Methods of estimating risk, types of <i>derivative</i> their underlying risk and any quantitative limits</p>	<p>Application for authorisation as a <i>scheme</i> complying with <i>CIS 5</i> or any subsequent proposed material alteration to the risk management process</p>	<p>Up until authorisation to comply with <i>CIS 5</i> or introduction of the alteration to the process, as appropriate</p>

Part 2

Amendments concerning limited issue funds and guaranteed funds

- 2.1.3 G This chapter assists in achieving the *regulatory objective* of protecting *consumers*...
- ...
- (3) provides *rules* which deal with the *classes of shares* (in *ICVCs*) and *units* (in *AUTs*) which may be issued and sold to investors; those *rules* will ensure that investors in each *class* are treated equally and fairly;
- (4) provides *rules* and *guidance* on the inclusion of the word "guaranteed" or anything implying a degree of capital security in the name of an *authorised fund*.

2.1.5 G Table of application

This table belongs to *CIS 2.1.2G*

Handbook provision:	Relevance for:	
	<i>ICVCs</i>	<i>AUTs</i>
2.1.1R - 2.1.4 <u>AR</u> , 2.2.1R	X	X
2.2.2R – 2.2.4R	X	
2.2.5R – 2.2.8R		X
2.3.1R – 2.3.4G	X	X
2.4.1R – 2.4.6R	X	
2.5.1R – 2.5.4R	X	
2.6.1R – <u>2.6.4R</u>		X
<u>2.7.1R – 2.8.2R</u>	<u>X</u>	<u>X</u>
Note: "X" means "applies".		

2.2.7 G (1) (i) ~~Accumulation units~~ Classes of units

~~a statement whether units in the AUT may be accumulation units only or accumulation units as well as income units.~~ a statement specifying which of the following classes of unit may be issued:

- (i) *income units*;
- (ii) *accumulation units*;
- (iii) *limited issue units* that are also *income units*;
- (iv) *limited issue units* that are also *accumulation units*.

2.4.2 G (2) Classes of shares may include:

...

- (e) currency class net accumulation shares, which are *currency class shares* in respect of which income (net of any tax deducted or accounted for by the *ICVC*) is credited periodically to capital under *CIS* 9.2.4R (Annual distribution to accumulation shares or accumulation units); ~~and~~
- (f) currency class gross accumulation shares, which are *currency class shares* in respect of which income is credited periodically to capital under *CIS* 9.2.4R, but, in accordance with relevant tax law, without deduction by the *ICVC* of any income tax; and
- (g) limited issue shares which will also be shares of another class.

What are limited issue shares?

- 2.4.5A G (1) Limited issue shares are a class of share that may only be issued if permitted by the instrument of incorporation. Sales by the ACD will also need to be restricted by the instrument of incorporation, although there need be no restriction on the ACD's sale of shares held in its "box" (see CIS 4.1.4G(3)) as a result of a previous redemption or an issue to the ACD when shares were available for issue. The issue and sale of limited issue shares may be confined to the occasion or occasions or up to the amount or value provided for by the prospectus.
- 2.4.5A G (2) ICVCs that are umbrella schemes are reminded of the requirements under section 235(4) of the Act when setting up sub-funds with limited issue shares. Accordingly, when an umbrella scheme is considering setting up one or more sub-funds to issue limited issue shares then it will also need to have in addition two or more sub-funds issuing shares which are not limited issue shares to enable holders to exchange rights between the latter sub-funds. It is, therefore, not possible for an umbrella scheme to consist of only two sub-funds in circumstances where, one or more of those sub-funds issues limited issue shares. However, it is possible for an umbrella scheme, but only for the limited period specified in CIS12.5.5 (An ICVC with only one sub-fund), to consist of one sub-fund and for this sole sub-fund to issue limited issue shares. These requirements should be provided for in the instrument of incorporation of the ICVC.

Limited issue shares: requirements

- 2.4.5B R (1) The ACD must ensure that limited issue shares are not in issue at the same time as any shares in the same ICVC or (in the case of an ICVC that is an umbrella scheme) sub-fund that are not limited issue shares.

- (2) After any *initial offer* of a *class* of *limited issue shares* or, if there is no *initial offer*, the time at which *shares* of that *class* are first *issued*, a subsequent *issue* of *shares* of that *class* must not be made unless:
- (a) the *ACD* is satisfied on reasonable grounds that the proceeds of that subsequent *issue* can be invested without compromising the *ICVC's* or *sub-fund's* investment objective or adversely affecting its future investment performance; and
- (b) that subsequent *issue* will not materially prejudice the existing holders of that *class* of *shares*.
- (3) The restrictions relating to any *class* of *limited issue shares* in a *sub-fund* must not prevent the *holder* of *shares* in that, or *holders* of *shares* in any other, *sub-fund* from exchanging those *shares* for *shares* in at least one other *sub-fund* of the *umbrella scheme*.

2.6.1 R This section (*CIS* 2.6) applies to the ~~types~~ classes of *units*, which may exist within an *AUT*.

2.6.2 R (3) ~~Each *unit* must be either an *income unit* or an *accumulation unit*.~~

Every *unit* must be either:

(a) an *income unit*; or

(b) an *accumulation unit*; or

(c) a *limited issue unit* that is also an *income unit*; or

(d) a limited issue unit that is also an accumulation unit.

- (4) The *AUT* will consist of *income units* only unless the *trust deed* provides, or the *manager* decides, under a power contained in the *trust deed*, that the *AUT* will consist of ~~the other class or of both~~ another class, or other classes, of unit.

What are limited issue units?

- 2.6.3 G (1) Limited issue units are a class of unit that is permitted in an AUT. Limited issue units may only be issued if permitted by the trust deed. Sales by the manager will also need to be restricted by the trust deed, although there need be no restriction on the manager's sale of units held in its "box" (see CIS 4.1.4G(3)) as a result of a previous redemption or an issue to the manager when units were available for issue. The issue and sale of limited issue units may be confined to the occasion or occasions or up to the amount or value provided for by the prospectus.
- (2) AUTs that are umbrella schemes are reminded of the requirements under section 235(4) of the Act when setting up sub-funds with limited issue units. Accordingly, when an umbrella scheme is considering setting up one or more sub-funds to issue limited issue units then it will also need to have in addition two or more sub-funds issuing units which are not limited issue units to enable holders to exchange rights between the latter sub-funds. It is, therefore, not possible for an umbrella scheme to consist of only two sub-funds in circumstances where, one or more of those sub-funds issues limited issue units. These requirements should be provided for in the trust deed of the AUT.

Limited issue units: requirements

- 2.6.4 R (1) The *manager* must ensure that *limited issue units* are not in *issue* at the same time as any *units* in the same *AUT* or (if the *AUT* is an *umbrella scheme*) *sub-fund* that are not *limited issue units*.
- (2) After any *initial offer* of a *class* of *limited issue units* or, if there is no *initial offer*, the time at which *units* of that *class* are first *issued*, a subsequent *issue* of *units* of that *class* must not be made unless:
- (a) the *manager* is satisfied on reasonable grounds that the proceeds of that subsequent issue can be invested without compromising the *AUT's* or *sub-fund's* investment objective or adversely affecting its future investment performance; and
- (b) that subsequent *issue* will not materially prejudice the existing holders of that *class* of *units*.
- (3) The restrictions relating to any *class* of *limited issue units* in a *sub-fund* must not prevent the holder of *units* in that or holders of *units* in any other *sub-fund* from exchanging those *units* for *units* in at least one other *sub-fund* of the *umbrella scheme*.

2.7 Undesirable and misleading names

2.7.1 R This section (CIS 2.7) applies to *authorised fund managers*.

2.7.2 G (1) Under section 243 of the *Act* and regulation 15 of the *OEIC Regulations*:

(a) the name of an *authorised fund* must not be undesirable or misleading; and

(b) in the case of an *ICVC*, its aims must be reasonably

capable of being achieved and, in the case of an *AUT*, its purpose must be reasonably capable of being successfully carried into effect.

- (2) In order to be satisfied that section 243 of the *Act* and regulation 15 of the *OEIC Regulations* are complied with, the *FSA* will, when considering an application for authorisation of an *ICVC* or *AUT*, or considering an alteration to an *authorised fund* under section 251 of the *Act* or Regulation 21 of the *OEIC Regulations*, take into account the principles in (3) and (4).
- (3) The name of an *authorised fund* should not include the word "guaranteed" unless:
- (a) the guarantee is given by an *authorised person* or a *person* authorised by a *Home State regulator* or a *person* subject to prudential supervision by a *regulatory body* in accordance with provisions equivalent to the *Capital Adequacy Directive* or the *Insurance Directives* other than the *authorised fund manager* or the *depository*;
 - (b) the *authorised fund manager* can demonstrate that the guarantor has the authority and resources to honour the terms of the guarantee;
 - (c) the guarantee covers all *holders* within the *authorised fund* and the guarantee is legally enforceable by each *holder* who is intended to benefit from it or by a *person* acting on that *holder's* behalf;
 - (d) the guarantee relates to the total amount paid for a *unit* which for these purposes includes any *preliminary charge* or *redemption charge* or any other costs of buying or

selling units in the *authorised fund*;

- (e) the guarantee provides for payment at a specified date or dates and is unconditional although reasonable commercial exclusions such as force majeure may be included; and
 - (f) where the guarantee applies to different *classes of unit*, the guarantee is identical in its application to all *classes* except for the differences attributable to income already received or charges already suffered by the different *classes of unit*.
- (4) The name of an *authorised fund* may indicate a guaranteed capital return or income return or both but only if the total amount paid for a *unit* is guaranteed in accordance with (3).
- (5) The name of an *authorised fund* should not include words implying a degree of capital security (such as "capital protected" or anything with a similar meaning) unless the degree of capital security is apparent from the name and clearly stated in the *prospectus* and (a) or (b) below is satisfied:
- (a) the principles in (3) are satisfied except that for the purposes of (3)(d) the guarantee may relate to an amount not materially less than the total amount paid for a *unit*; or
 - (b) the investment objective and investment policy for the *authorised fund* are such as to show a clear intention to provide a material degree of security in respect of the total amount paid for a *unit*.

(6) When determining whether (5) is complied with, the FSA will take into account whether the degree of capital security implied by the name fairly reflect the nature of the arrangements for providing that security. This assessment will take place on a case by case basis.

2.7.3 R The authorised fund manager must ensure that the name of a sub-fund or of a class of share is not undesirable or misleading.

2.7.4 G When deciding whether CIS 2.7.3R is complied with the FSA will take into account the principles in CIS 2.7.2G (3), (4) and (5) as if they related to the name of a sub-fund or share class as well as to the name of an authorised fund. However, it should be noted that CIS 2.7.3R applies generally and not just to the names that include the words "guaranteed" or "capital protected".

2.8 Guarantees and Capital Protection
Application

2.8.1 R This section (CIS2.8) applies to authorised fund managers and depositaries.

Conflicts of interest

2.8.2 R If there is any arrangement intended to result in a particular capital or income return from a holding of units in an authorised fund, or any investment objective of giving protection to the capital value of, or income return from, such a holding, that arrangement or protection must not be such as to cause the possibility of a conflict of interests as between:

(a) holders and the authorised fund manager or depositary; or

(b) holders intended to benefit from the arrangement and holders not intended to benefit from the arrangement.

3.5.2 R Table Contents of the prospectus

This table belongs to CIS 3.5.2R

5 ...

(4) where a mandatory *redemption, cancellation* or conversion of *units* from one *class* to another may be required (for instance, if an investor does not satisfy the residence condition for income to be paid or accumulated without tax being deducted), in what circumstances it may be required; ~~and~~

(5) in the case of an *AUT*, the fact that the nature of the right represented by units is that of a beneficial interest under a trust; and

(6) in the case of a class of limited issue shares or limited issue units, the restrictions on the issue and sale of those shares or units.

...

24 (1) In the case of an *umbrella scheme*:

(a) that a *holder* is entitled to exchange *units* in one *sub-fund* for *units* in any other *sub-fund* (other than limited issue units or limited issue shares);

...

...

26 Additional information

Any other material information which is within the knowledge of the *directors* of an *ICVC* or the *manager* of an *AUT*, or which the *directors* or *manager* would have obtained by the making of reasonable enquiries:

- (1) which investors and their professional advisers would reasonably require, and reasonably expect to find in the *prospectus*, for the purpose of making an informed judgement about the merits of investing in the *authorised fund* and the extent and characteristics of the risks accepted by so participating; ~~and~~
- (2) including a statement of any risks which investment in the *authorised fund* may reasonably be regarded as presenting for reasonably prudent investors of moderate means; and
- (3) including, if there is any arrangement intended to result in a particular capital or income return from a holding of units in the *authorised fund*, or any investment objective of giving protection to the capital value of, or income return from, such a holding:
 - (a) details of that arrangement or protection;
 - (b) for any related guarantee, sufficient details about the guarantor and the guarantee to enable a fair assessment of the value of the guarantee;
 - (c) a description of the risks that could affect achievement of that return or protection; and
 - (d) details of the arrangements by which the *authorised fund manager* will notify holders of any action required by the holders to obtain the benefit of the guarantee, if appropriate; these arrangements must provide for notice to be given a reasonable amount of time before the action is

required.

4.3.5 R (2) If, on receiving instructions to *issue* or cancel *units*, the *trustee* is of the opinion that (in the case of an *issue*) the *issue* would be in breach of a restriction on *issue* relating to a *class* of *limited issue shares* or *limited issue units* or that it is not in the interests of *unitholders* that:

...

4.4.3 R (3) Paragraph (1) does not apply to *units* of any *class*:

...

(b) if the *sale* of *units* of that *class*:

(i) _____ is prohibited by the *rules* in CIS 13 (Suspension and ~~termination~~ resumption of dealings); or

(ii) _____ would breach a restriction on *sale* applicable to a *class* of *limited issue shares* or *limited issue units*.

4.5.3 R (7) Paragraph (1) does not apply if the *issue* would breach a restriction on *issue* applicable to a *class* of *limited issue shares* or *limited issue units*.

8.5.5 R (1) No payments may be made out of the *scheme property* of an *AUT*...

...

(j) any payment permitted by CIS 8.4.1R (Payment of liabilities on transfer of assets); ~~and~~

(k) value added tax payable in connection with any of (a) to (j); and

(l) _____ any costs incurred in connection with obtaining a

guarantee for the *scheme's* capital value.

11.4.4 R (4) This sub-paragraph (4) applies in respect of an *authorised fund*, subject to sub-paragraph (5)...

...

(e) in the case of an *umbrella scheme*, to remove references to a *sub-fund*, following the approval of the *FSA* to a proposal to alter the *umbrella scheme* by removing that *sub-fund*; ~~or~~

(f) to introduce *limited issue shares* or *limited issue units* unless the directors (for an *ICVC*) or the *manager* and *trustee* (for an *AUT*) consider to do so would involve any holder or potential holder in any material prejudice; or

~~(g)~~ (g) to make any other changes to the *instrument constituting the scheme* which the *directors* (for an *ICVC*) or the *manager* and *trustee* (for an *AUT*) consider does not hold any holder or potential holder in any material prejudice

12.5.8 G Table Main provisions relating specifically to umbrella schemes

This table belongs to CIS 12.5.6G.

Rule/Guidance (CIS)	Subject matter
<u>2.4.5A G(2)</u>	<u>What are limited issue shares?</u>
<u>2.4.5B R(3)</u>	<u>Limited issue shares: requirements</u>
2.4.6 <u>R</u> (2)	Rights of <i>share classes</i>
<u>2.6.3G(2)</u>	<u>What are limited issue units?</u>
<u>2.6.4R(3)</u>	<u>Limited issue units: requirements</u>

3.5.2 <u>R</u> (24)	Information to be contained in the <i>prospectus (umbrella schemes)</i>
4.4.3R(1)	<i>Authorised fund manager's obligation to sell</i>
4.7.4R(2)	Forward and historic pricing (single-pricing)
5.1.4(3)	Explanation of <i>CIS 5</i>
5.1.6G Note 2	Investment powers
5 <u>A</u> .2.12R	Investment in other <i>CIS</i>
5 <u>A</u> .2.16G	Significant influence and concentration
5 <u>A</u> .12R	General investment powers and restrictions
8.2.8R	Fee payable on switching
10.3.3(2) and (3)R; 10.3.4(2) & (3)R;	Annual and half-yearly reports
10.4.2(15) and (16)R and 10.4.3R	Report of the <i>directors/manager</i>
10.4.8R	Report of the auditor
10.5.2R(3)	Publication of reports
11.5.2R	<i>Schemes of arrangement</i>
13.1.3R(9)	Suspension and resumption of <i>dealings</i>
14.3R	Termination of a <i>sub-fund</i>
15.4.3R	<i>Manager's obligation to sell</i>
15.7.4R	Forward and historic pricing (dual-pricing)

15.3.9 R (2) If, on receiving instructions to *issue* or cancel *units*, the *trustee* is of the opinion that (in the case of an *issue*) the *issue* would be in breach of a restriction on *issue* relating to a *class* of *limited issue units* or that it is not in the interests of *unitholders* that:

(a) *units* should be issued

(b) *units* should be cancelled

(c) *units* should be issued or cancelled in the number requested by the *manager*;

the *trustee* must give notice to the *manager* that it refuses to *issue* or, as the case may be, cancel, all, or a specified number of, the *units*.

15.4.3 R (3) Paragraph (1) does not apply to *units* of any *class*:

(a) if no *units* of that *class* are in *issue*; or

(b) ~~if the sale of *units* of that *class* is prohibited by CIS 13 (Suspension and termination).~~
if the sale of *units* of that *class*:

(i) is prohibited by the rules in CIS 13 (Suspension and resumption of dealings); or

(ii) would breach a restriction on *sale* applicable to a *class* of *limited issue units*.

15.5.3 R (7) Paragraph (1) does not apply if the *issue* would breach a restriction on *issue* applicable to a *class* of *limited issue units*.

16.1.5A D An application for an *authorisation order* in respect of an *ICVC* must include details of:

- (a) any arrangement intended to result in a particular capital or income return from a holding of *units* in the *ICVC*; and
- (b) any investment objective of giving protection to the capital value of, or income return from, such a holding of *units* in the *ICVC*.

16.1.7A D An application for an *authorisation order* in respect of an *AUT* must include details of:

- (a) any arrangement intended to result in a particular capital or income return from a holding of *units* in the *AUT*; and
- (b) any investment objective of giving protection to the capital value of, or income return from, such a holding of *units* in the *AUT*.

Annex B
Amendments to the Conduct of Business sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

COB TR 1 Transitional Rules for pre-N2 and ex-Section 43 firms

1 Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies: The COB provisions in Table COB TR2 with the labels indicated		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
1.1	<i>ETP1</i>	R	<p>Transitional Relief</p> <p>(1) A pre-N2 <i>firm</i> will not contravene any of the provisions labelled <i>ETP1</i> in Table <i>COB TR 2</i> to the extent that, on or after <i>commencement</i>, it is able to demonstrate that it has complied with the <i>corresponding rule</i> of its <i>previous regulator</i> or, where applicable, the relevant former statutory requirement, subject to any modification wherever appropriate, to take account of the passing of the <i>Act</i>.</p>	<p>(1) <i>commencement</i> to 30 June 2002, except as specified in (2) and (3) below;</p> <p>(2) for <i>COB 9.3.105R</i>, from <i>commencement</i> to 31 December 2002;</p> <p>(3) for <i>COB 3.9.10R</i>, <i>COB 4.2.15E (7)</i>, <i>COB 5.3</i>, <i>COB 5.7</i>, <i>COB 6.1</i> to</p>	<i>commencement</i>

			<p>(2) Paragraph (1) does not apply to the following:</p> <p>...</p> <p><u>(g) (from 1 November 2002)</u></p> <p><u>COB 6.5.40R(3)(m) and</u></p> <p><u>(n) (Further information for life policies, schemes, insurance or equity ISAs, PEPs and stakeholder pensions).</u></p>	6.8 until a date yet to be specified.	
--	--	--	--	---------------------------------------	--

3.8.7 G (2) ~~(a)~~ — ~~Except in relation to *life policies* providing guaranteed benefits, or *deposits*, the description of an *investment* as ‘guaranteed’ should be used only if there is a legally enforceable arrangement with a third party to meet a claim in full. In such cases sufficient details about the guarantor and the guarantee should be provided before a *person* enters into a transaction relating to the *investment* to enable him to make a fair assessment of the value of the guarantee. A guarantee to the *directors* of a company that issues an *EIS share* is not a guarantee to a *person* invested in the relevant *Enterprise Investment Scheme*.~~

(a) Except in relation to *life policies* providing guaranteed benefits, or *deposits*, the description of an *investment* as ‘guaranteed’ should only be used where there is a legally enforceable arrangement with a third party to meet the claim in full. In such cases sufficient details about the guarantor and the guarantee should be provided before a *person* enters into a transaction

relating to the investment to enable him to make a fair assessment of the value of the guarantee.

(b) Where the investment is in units of an authorised fund the guarantee should be given by a third party other than the authorised fund manager or the depositary. Firms should note that COB 6.5.40R(3)(m) requires specific information to be included in the key features of an authorised fund in respect of any guarantee or other arrangement intended to result in a particular capital or income return from a holding of units or shares in that authorised fund and in respect of any investment objective of giving protection to the capital value or income return from such a holding. CIS 3.5.2R 26 requires similar information to be contained in the prospectus of an authorised fund. CIS 2.7.2G contains guidance on when the name of an authorised fund should not include the word "guaranteed".

(c) A guarantee to the directors of a company that issues an EIS share is not a guarantee to a person invested in the relevant Enterprise Investment Scheme.

6.5.40 R (3) for regulated collective investment schemes...

...

(l) in relation to SDRT provision:

(ii) Whether the authorised fund manager's policy is such that an SDRT provision may be imposed;

(m) if there is any arrangement intended to result in a particular capital or income return from the units or shares or any investment objective of giving protection to their capital value or income return:

- (i) details of that arrangement or protection;
 - (ii) for any related guarantee, sufficient details about the guarantor and the guarantee to enable a fair assessment of the guarantee; and
 - (iii) a description of the risks that could affect achievement of that return or protection including details of what happens when an investment is encashed before the expiry of any related guarantee or protection;
- (n) if there is a class of *limited issue shares* or *limited issue units*, a summary of the restrictions on the issue and sale of those *shares* or *units*.

Annex C
Amendments to the Glossary

Amend the following definitions as shown (underlining indicates new text and striking through indicates deleted text).

- approved bank* (except in CIS) (in relation to a bank account opened by a *firm*):
- (a) if the account is opened at a branch in the *United Kingdom*:
 - (i) the Bank of England; or
 - (ii) the central bank of a member state of the *OECD*; or
 - (iii) a *bank*; or
 - (iv) a *building society* which offers, unrestrictedly, banking services; or
 - (v) a bank which is supervised by the central bank or other banking regulator of a member state of the *OECD*; or
 - (b) if the account is opened elsewhere:
 - (i) a bank in (a); or
 - (ii) a *credit institution* established in an *EEA State* other than in the *United Kingdom* and duly authorised by the relevant *Home State Regulator*; or
 - (iii) a bank which is regulated in the Isle of Man or the Channel Islands; or
 - (c) a bank supervised by the South African Reserve Bank; or
 - (d) any other bank that:
 - (i) is subject to regulation by a national banking regulator;
 - (ii) is required to provide audited accounts;
 - (iii) has minimum net assets of £5 million (or its equivalent in any other currency at the relevant time) and has a surplus revenue over expenditure for the last two financial years; and
 - (iv) has an annual audited report which is not materially qualified.
- (in CIS) any person falling within (a-c).

<i>eligible</i>	(in <i>CIS</i>) (in relation to a securities market or a derivatives market) a market that satisfies the requirements in <u><i>CIS</i> 5.2.12R or <i>CIS</i> 5A.3.3R (Eligible markets: requirements) in relation to schemes falling under <i>CIS</i> 5 or <i>CIS</i> 5A respectively.</u>
<i>geared securities scheme</i>	a regulated collective investment scheme where the policies which the operator adopts or proposes to adopt mean that as a result of investment in <u>warrants or derivatives</u> , movements in prices of <i>units</i> are likely to be amplified significantly.
<i>higher volatility fund</i>	(a) a geared futures and options scheme, a geared securities scheme, or a warrant scheme;
<u>limited issue share</u>	<u>a share of a class the issue of which is restricted by reference to:</u> (a) <u>the occasion or occasions on which shares of that class may be issued; or</u> (b) <u>the amount or value of shares that may be issued.</u>
<u>limited issue unit</u>	<u>a unit of a class the issue of which is restricted by reference to:</u> (a) <u>the occasion or occasions on which units of that class may be issued; or</u> (b) <u>the amount or value of units that may be issued.</u>
<i>transferable security</i>	(in <i>CIS</i>) a security that is not an investment excluded by an investment within <i>CIS</i> 5.2.9R (Transferable securities) or <i>CIS</i> 5A.2.9R (Transferable securities)" in relation to schemes falling under <u><i>CIS</i> 5 or <i>CIS</i> 5A respectively.</u>