

## **SIMPLIFIED PROSPECTUS (AMENDMENT) INSTRUMENT 2005**

### **Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 138 (General rule-making power);
    - (b) section 140 (Restriction on managers of authorised unit trust schemes);
    - (c) section 145 (Financial promotion rules);
    - (d) section 156 (General supplementary powers);
    - (e) section 157(1) (Guidance);
    - (f) section 238(5) (Restrictions on promotion);
    - (g) section 247 (Trust scheme rules);
    - (h) section 248 (Scheme particulars rules); and
    - (i) section 278 (Rules as to scheme particulars); and
  - (2) regulation 6 (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

### **Commencement**

- C. This instrument comes into force on 1 October 2005.

### **Amendments to the Handbook**

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business sourcebook (COB) is amended in accordance with Annex B to this instrument.

### **Citation**

- F. This instrument may be cited as the Simplified Prospectus (Amendment) Instrument 2005.

By order of the Board  
15 September 2005

## Annex A

### Amendments to the Glossary of definitions

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

Amend the following definitions as shown:

- UCITS scheme* an *authorised fund*;
- (a) whose *instrument constituting the scheme* contains ~~the a~~ statement in *COLL 3.2.6R(2)* (Table: contents of the instrument constituting the scheme) or, that it is:
- (i) a *UCITS scheme*;
- (ii) a *UCITS scheme* that complies with *CIS 5*;
- (iii) a *securities scheme*; or
- (iv) a *warrants scheme*; or
- (b) ~~if it complies with *CIS*, the statement required by *CIS 2.2.6R(2)(a)(i)* (Matters that must be included in the trust deed) or paragraph 4 (1)(b) of Schedule 2 to the *OEIC Regulations* which is an *umbrella scheme* each of whose *sub-funds* would be a *UCITS scheme*, *securities scheme* or *warrants scheme* if it had a separate *authorisation order*;~~
- unless:
- (a) the *scheme* raises capital without promoting the *sale* of
- (c) its *units* to the public within the *EEA* or any part of it; or
- (b) the *scheme's units* under its *trust deed* or its *instrument*
- (d) *constituting the scheme*, may be sold only to the public in non-EEA States.
- umbrella* (in *COLL*, ~~and~~ *CIS* and *COB*), a *collective investment scheme* under which...

## Annex B

### Amendments to the Conduct of Business sourcebook

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

- 1.6.4 R Provisions of COB applied to corporate finance business
- This table belongs to *COB* 1.6.3R
- ...
- COB Subject
- ...
- Chapter 3 Financial promotion, except *COB* 3.8.6G – *COB* 3.8.20AGR ...
- ...
- Application
- 3.8.1 R ...
- (1) ... to *COB* 3.8.20AGR apply to ...
- ...
- Non real time financial promotions: guidance on clear, fair and not misleading
- 3.8.7 G ...
- (2) (a) ...
- (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 *depository*. ~~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. *COB* 3.5.2G 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”.~~
- ...
- Specific non-real time financial promotions: simplified prospectus schemes and equivalent recognised schemes
- 3.8.20A R *A specific non-real time financial promotion relating to a simplified prospectus scheme or a recognised scheme under section 264 of the Act (Schemes constituted in other EEA States) must indicate that a simplified prospectus and prospectus exist for the scheme and the*

places where they may be obtained by the public or how the public may have access to them.

...

#### Packaged products

- 3.9.10 R (1) A direct offer financial promotion relating to a packaged product other than a simplified prospectus scheme or a recognised scheme under section 264 of the Act (Schemes constituted in other EEA States) must contain the information...
- (2) A direct offer financial promotion relating to a simplified prospectus scheme must contain the information required by COB 6.2.37R (Table: Contents of the simplified prospectus) and where a projection has to be provided in accordance with COB 6.2.43R (1) (Projection for simplified prospectus scheme), the required contents of that projection.
- (3) A direct offer financial promotion relating to a recognised scheme under section 264 of the Act (Schemes constituted in other EEA States) must contain the information which the competent authority of the recognised scheme's Home State requires a simplified prospectus to contain.
- (4) Where a direct offer financial promotion relates to a funds supermarket service, the promotion may, instead of meeting the requirements in (1), (2) and (3), take the form of a composite key features document that complies with the requirements of COB 6.5 (Content of key features) provided that it contains a clear statement that the simplified prospectus of each simplified prospectus scheme and simplified prospectus of each recognised scheme to which the service relates is available free of charge on request.

- 3.9.11 G (1) The information should follow ...
- (2) Where the direct offer financial promotion relates to more than one key features scheme, simplified prospectus scheme or recognised scheme under section 264 of the Act (Schemes constituted in other EEA States) or any combination of them, the information to be provided in the promotion may be presented on a composite basis.

...

- 6.2.22 R ...
- (2) ... to COB 6.2.45A R instead of ...

...

- Production and publication of simplified prospectus
- 6.2.26 R ...
- (5) ~~[deleted]~~ Where the simplified prospectus is an umbrella or has more than one class of units, the operator may at its option

produce and publish either a composite *simplified prospectus* covering all the *sub-funds* that comprise the *umbrella* or all the *classes of units*, as applicable, or a separate *simplified prospectus* for each *sub-fund* comprising the *umbrella* or for each *class of units*, as the case may be.

- (6) ~~[deleted]~~ Where in accordance with (5) an *operator* produces and publishes separate *simplified prospectuses* for the *sub-funds* of an *umbrella* or, as the case may be, for each *class of units*, references in *COB 6.2.26R* to *COB 6.2.45R* to “*scheme*” or “*simplified prospectus scheme*” should be taken as referring to the relevant *sub-fund* or *class*, as applicable.

...  
6.2.31

G

- ...  
(2) *Operators* considering marketing the *units* of their *simplified prospectus schemes* in another *EEA State* in the exercise of an *EEA right* should have regard to the local marketing legislation of such country. In this regard the attention of *firms* is drawn to *COB 6.2.38R(2)* (Reduction in yield), under which an *operator* when it is producing a *simplified prospectus* for a *simplified prospectus scheme* whose *units* are to be marketed in another *EEA State*, need not provide the reduction in yield information or format for that *simplified prospectus*. Inclusion of such information and format might be confusing for investors in such countries who are unlikely to be familiar with them. The *simplified prospectus* that is to be marketed in the United Kingdom must, however, include the reduction in yield information and format. Likewise there is no requirement for a projection under *COB 6.2.43R(1)* to have to be included in a *simplified prospectus* which is being used for marketing purposes in another *EEA State*.

...

Exception from the requirement to ~~offer~~ provide a simplified prospectus: firms offering and intermediaries selling a funds supermarket service

6.2.36

R

- (1) A *firm* to which *COB 6.2.33R* (Obligation on a firm to provide a simplified prospectus) applies ~~that~~ when it:

(a) is offering offers a funds supermarket service; or

(b) sells, personally recommends or arranges (brings about) the sale of a simplified prospectus scheme through a funds supermarket service;

need not, unless a *private customer* requests it, provide a *private customer* with a *simplified prospectus* for any *simplified prospectus scheme* to which ~~its~~ the funds supermarket service relates provided it complies with the condition in (2).

- (2) The condition is that the *firm* must instead provide the *private customer* with ~~a~~ the abbreviated form of composite key features document that meets the requirements of is permitted under COB 6.5 (Content of key features) and which covers each of the *key features schemes* and *simplified prospectus schemes* to which ~~its~~ the funds supermarket service relates.

6.2.37 R Table: Contents of the simplified prospectus

...

Contents of simplified prospectus
...
Brief presentation ... <del>Where a <i>scheme</i> comprises an <i>umbrella</i> or has more than one <i>class</i> of <i>units</i> and the <i>operator</i> in accordance with COB 6.2.26R(5) is producing a separate <i>simplified prospectus</i> for each <i>sub fund</i> or, as the case may be, for each <i>class</i> of <i>units</i>, references in this Table to <i>scheme</i> should be taken, wherever appropriate, as referring to the relevant <i>sub fund</i> or <i>class</i>, as applicable.</del>
...
General Note:
In making the disclosures required by paragraphs (8) to (19) of this Table, the information must be presented in the form of questions and answers. This format is designed to assist the comprehension of the reader. This requirement will not apply in relation to a <i>simplified prospectus</i> that is to be used to market the <i>units</i> of the <i>scheme</i> in another <i>EEA state</i> <u>or in relation to a <i>simplified prospectus</i> that is to be used to market the <i>units</i> of the <i>scheme</i> exclusively to <i>persons</i> who are not <i>private customers</i>.</u>

- 6.2.38 R (1) ...  
 ... (2) Where the *units* of a *simplified prospectus scheme* are to be marketed and sold in another *EEA State* or exclusively to *persons* who are not *private customers*, the *operator* of the *scheme* need not comply with the requirements in (1)...

...

6.2.42 G *Firms* should bear in mind the *guidance* at COB 6.2.5AG. Where a *simplified prospectus* is provided to a *retail customer* in circumstances where a *distance contract* is being concluded, this chapter does not require the same information to be provided again to the *customer* as a result of COB 6.2.41R. *Firms* should note, however, that while the contents of a *simplified prospectus* and the contractual terms and conditions and the information required by COB Appendix 1.1 substantially overlap,

there are differences between them. Consequently it is necessary for *firms* additionally to provide the contractual terms and conditions and the information required by COB Appendix 1.1 to the extent that such information is not covered by the contents of the *simplified prospectus*. ~~This additional information may accompany, but should not form part of, the *simplified prospectus* itself.~~

...

Child trust fund investments

6.2.45A R When a *firm* sells, *personally recommends* or arranges for the sale of a *unit* in a *simplified prospectus scheme* to a *private customer* which is to be held within a *CTF*, it must provide him with the information required by COB 6.5.40R(7) (Further information for life policies, key features schemes, stocks and shares ISAs, PEPs, CTFs and stakeholder pension schemes).

UCTIS Directive: requirement to offer a simplified prospectus for section 264 schemes

- 6.2.46 R
- (1) When a *firm* sells...recent ~~*simplified prospectus*~~ simplified prospectus before...
  - (2) The ~~*simplified prospectus*~~ simplified prospectus ...
  - (3) When the *scheme holding*...the ~~*simplified prospectus*~~ simplified prospectus ...
  - (4) ...
    - (a) the *scheme's* ~~*simplified prospectus*~~ simplified prospectus
    - ...
    - (b) the information contained in the ~~*simplified prospectus*~~ simplified prospectus...

...

Composite documents for several schemes, sub-funds and classes

6.2.48 G In the *FSA's* view, a *firm* may, for the purposes of COB 6.2.22R and COB 6.2.33R (Obligation on a firm to provide a key features/simplified prospectus), combine the required information on several *simplified prospectus schemes*, *key features schemes* or *recognised schemes* under section 264 of the *Act* (Schemes constituted in other EEA States) or any combination of them into a composite document, provided the document continues to comply with the general requirements such as being clear. Similarly, the information on different *sub-funds* or *classes* within a *scheme* may be combined into a composite document or provided as separate documents. Where the latter approach is adopted, references in COB 6.2.26R to COB 6.2.45R to "*scheme*" or "*simplified prospectus scheme*" should be taken as referring to the relevant *sub-fund* or *class*, as applicable.

Multiclass schemes: use of representative class

- 6.2.49    G    In the FSA's view, where a *simplified prospectus scheme* has more than one *class of unit*, the *simplified prospectus* may be prepared on a representative *class* basis, provided this is made clear and there is no material difference in the *classes* concerned. The same applies for an *umbrella*, as regards any *sub-fund* with more than one *class of units*.

...