



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVII

#### COLLECTIVE INVESTMENT SCHEMES

#### CHAPTER I

##### INTERPRETATION

#### **235 Collective investment schemes.**

- (1) In this Part “collective investment scheme” means any arrangements with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.
- (2) The arrangements must be such that the persons who are to participate (“participants”) do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions.
- (3) The arrangements must also have either or both of the following characteristics—
  - (a) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled;
  - (b) the property is managed as a whole by or on behalf of the operator of the scheme.
- (4) If arrangements provide for such pooling as is mentioned in subsection (3)(a) in relation to separate parts of the property, the arrangements are not to be regarded as constituting a single collective investment scheme unless the participants are entitled to exchange rights in one part for rights in another.

*Status: Point in time view as at 25/02/2001.*

*Changes to legislation: Financial Services and Markets Act 2000, Chapter I is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) The Treasury may by order provide that arrangements do not amount to a collective investment scheme—
- (a) in specified circumstances; or
  - (b) if the arrangements fall within a specified category of arrangement.

### 236 Open-ended investment companies.

- (1) In this Part “an open-ended investment company” means a collective investment scheme which satisfies both the property condition and the investment condition.
- (2) The property condition is that the property belongs beneficially to, and is managed by or on behalf of, a body corporate (“BC”) having as its purpose the investment of its funds with the aim of—
  - (a) spreading investment risk; and
  - (b) giving its members the benefit of the results of the management of those funds by or on behalf of that body.
- (3) The investment condition is that, in relation to BC, a reasonable investor would, if he were to participate in the scheme—
  - (a) expect that he would be able to realize, within a period appearing to him to be reasonable, his investment in the scheme (represented, at any given time, by the value of shares in, or securities of, BC held by him as a participant in the scheme); and
  - (b) be satisfied that his investment would be realized on a basis calculated wholly or mainly by reference to the value of property in respect of which the scheme makes arrangements.
- (4) In determining whether the investment condition is satisfied, no account is to be taken of any actual or potential redemption or repurchase of shares or securities under—
  - (a) Chapter VII of Part V of the <sup>M1</sup>Companies Act 1985;
  - (b) Chapter VII of Part VI of the <sup>M2</sup>Companies (Northern Ireland) Order 1986;
  - (c) corresponding provisions in force in another EEA State; or
  - (d) provisions in force in a country or territory other than an EEA state which the Treasury have, by order, designated as corresponding provisions.
- (5) The Treasury may by order amend the definition of “an open-ended investment company” for the purposes of this Part.

#### Marginal Citations

- M1** 1985 c. 6.  
**M2** S.I. 1986/1032 (N.I. 6.)

### 237 Other definitions.

- (1) In this Part “unit trust scheme” means a collective investment scheme under which the property is held on trust for the participants.
- (2) In this Part—
 

“trustee”, in relation to a unit trust scheme, means the person holding the property in question on trust for the participants;

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“depository”, in relation to—

- (a) a collective investment scheme which is constituted by a body incorporated by virtue of regulations under section 262, or
- (b) any other collective investment scheme which is not a unit trust scheme,

means any person to whom the property subject to the scheme is entrusted for safekeeping;

“the operator”, in relation to a unit trust scheme with a separate trustee, means the manager and in relation to an open-ended investment company, means that company;

“units” means the rights or interests (however described) of the participants in a collective investment scheme.

(3) In this Part—

“an authorised unit trust scheme” means a unit trust scheme which is authorised for the purposes of this Act by an authorisation order in force under section 243;

“an authorised open-ended investment company” means a body incorporated by virtue of regulations under section 262 in respect of which an authorisation order is in force under any provision made in such regulations by virtue of subsection (2)(1) of that section;

“a recognised scheme” means a scheme recognised under section 264, 270 or 272.

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