



Guidance Note – Incorrect Pricing of Units in Collective Investment Schemes

January 2017

Recording and reporting instances of incorrect pricing

i. Recording and Reporting by the Manager (or Administrator)

All pricing errors must be recorded in a register of pricing errors¹. If the error is material, as determined by the factors outlined in (ii) below, the error should also be reported to the Isle of Man Financial Services Authority (“the Authority”), using the form contained on the Schemes electronic reporting portal. The Authority has issued pro-forma template registers and error reporting forms to assist licenceholders. These can be found on the Authority’s website at: <https://www.iomfsa.im/regulated-sectors/regulated-sectors-general/returnsforms/>

In the case of an Authorised Collective Investment Scheme or Regulated Fund/Full International Scheme the error should be reported to the fiduciary custodian or trustee together with details of the action taken, or to be taken, to avoid repetition.

In the case of schemes where there is no fiduciary custodian or trustee, the Authority would expect the manager (or administrator) to consult with an appropriately qualified independent third party (e.g., a custodian, lawyer or accountant) to assist in making judgements, where the amounts are material.

ii. Reporting by the Fiduciary Custodian/Trustee

As soon as an Isle of Man based fiduciary custodian or trustee becomes aware of a material pricing error, it should report it to the Authority.

Materiality should be determined by taking into account a number of factors including:

- a. where the error is more than 0.5% of the price of the unit;
- b. whether the manager (or administrator) has in place adequate procedures and controls in determining prices of units and whether he has followed these procedures;
- c. the significance of any breakdown in management controls or other checking procedures;
- d. the significance of any failure of systems, including situations where inadequate backup arrangements exist;

¹ In accordance with rule 8.60.

- e. the duration of an error (the longer an error persists, the more likely that it will have a material effect on a price);
- f. the level of compensation that would be due to investors; and
- g. the fund manager's (or administrator's) ability to meet the payment of compensation in full.

iii. Quarterly reporting to the Authority

The fund manager (or administrator), and any Isle of Man based fiduciary custodian or trustee, must report to the Authority within 15 business days of each quarter-end all pricing errors which occurred during the period using the form contained on the Schemes electronic reporting portal.

Reimbursement or payment of compensation due to incorrect pricing

There is a duty on the fund manager (or administrator) to take action to reimburse affected investors, former investors, and the scheme itself, for pricing errors. However, reimbursement or payment of compensation may not be required if the incorrect pricing is of 'minimal significance'.

In determining whether a pricing error is of 'minimal significance', the licenceholder may take into account –

- a. the adequacy of the systems and controls for determining prices of units and the adequacy of pricing checks undertaken by the fiduciary custodian or trustee; and
- b. whether the error in pricing of a unit is less than 0.5% of the correct price.

If the systems and controls and the pricing checks in (a) are adequate, and if the error is below the threshold in (b) then the error may be considered to be of 'minimal significance'. In all other circumstances the error would normally not be of 'minimal significance'. Nevertheless, if a fiduciary custodian or trustee considers that reimbursement, or payment of compensation, by the fund manager (or administrator) is inappropriate, it should report the matter to the Authority, together with its recommendations and justification.

In all cases where reimbursement or payment of compensation is required, amounts due to be reimbursed to investors in authorised schemes or regulated funds/full international schemes for individual sums under £10 will not, normally, need to be paid, although a fund manager (or administrator) may pay such a sum, or may wish to make up smaller amounts to a higher figure (such as the £10 minimum).

The Authority has not been prescriptive on de minimis compensation amounts in relation to other schemes administered by licenceholders in the Isle of Man, for example specialist funds and qualifying funds, as each case would need to be considered on its own merits.

The application of the above principles does not prejudice the legal right of any investor to claim compensation.

Status of Guidance: The Financial Services Authority issues guidance for various purposes, including to illustrate best practice, to assist licenceholders to comply with legislation and to provide examples or illustrations. Guidance is, by its nature, not law, however it is persuasive. Where a person follows guidance this would tend to indicate compliance with the legislative provisions, and vice versa.