



Guidance Note – Trustees and Fiduciary Custodians of Authorised, Full international and Regulated Collective Investment Schemes January 2017

Requirements and Role

Trustees and Fiduciary Custodians of Authorised Schemes¹, in addition to the normal duties and responsibilities of a Trustee / Fiduciary Custodian, are required to undertake detailed supervisory functions imposed on them under the Authorised Collective Investment Schemes Regulations 2010. The Trustee's / Fiduciary Custodian's responsibilities include ensuring that the Scheme is managed in complete accordance and compliance with:-

1. the Scheme's constitutional documents;
2. the most recently published Scheme Particulars; and
3. the Authorised Collective Investment Schemes Regulations 2010

Whilst Trustees and Fiduciary Custodians of Regulated collective investment schemes are not required to undertake the same detailed supervisory functions as an Authorised Scheme, this does not diminish the fundamental role of Trustees / Fiduciary Custodians as both custodians of Scheme assets and guardians of investors' interests. They are subject to the Collective Investment Schemes (Regulated Fund) Regulations 2010.

The Isle of Man Financial Services Authority ("the Authority") expects any trustee/custodian agreement to impose upon the Trustee / Fiduciary Custodian a duty to ensure that the Scheme is managed in accordance with the provisions of its constitutional documents.

The Authority expects Trustees / Fiduciary Custodians of Authorised, Full International and Regulated Schemes to undertake on-site compliance testing on the scheme managers and the adequacy of these arrangements. This, together with their on-going monitoring programme, will be reviewed by the Authority's officers during Supervisory Visits on Trustees / Fiduciary Custodians.

¹ the Collective Investment Schemes (Authorised Schemes)(Trustee and Fiduciary Custodian) Order 2013 amends Schedule 1 to the Collective Investment Schemes Act 2008, to enable an Authorised Scheme to appoint a trustee or fiduciary custodian that does not have a place of business on the Island but that meets other criteria.

Compensation Scheme for Authorised Schemes

Trustees / Fiduciary Custodians of Authorised Schemes automatically become a participant in the Collective Investment Schemes Compensation Scheme under the terms of the Authorised Collective Investment Schemes (Compensation) Regulations 2008.

Independence of Managers and Trustees of Full International and Regulated Funds

Where it is intended that the Manager and Trustee / Fiduciary Custodian of a Full International or a Regulated Fund are to be bodies corporate having the same ultimate parent company, a letter of comfort must be submitted to the Authority.

Status of Guidance: The Isle of Man 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.