

**DORMANT ASSETS (COLLECTIVE INVESTMENT SCHEMES AND CLIENT MONEY) INSTRUMENT 2024**

**Powers exercised by the Financial Conduct Authority**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137B (FCA general rules: clients’ money, right to rescind etc);
    - (c) section 137T (General supplementary powers);
    - (d) section 138D (Actions for damages);
    - (e) section 139A (Power of the FCA to give guidance);
    - (f) section 213 (The compensation scheme);
    - (g) section 214 (General);
    - (h) section 226 (Compulsory jurisdiction);
    - (i) section 247 (Trust scheme rules);
    - (j) section 248 (Scheme particulars rules);
    - (k) section 261I (Contractual scheme rules); and
    - (l) section 261J (Contractual scheme particulars rules);
  - (2) regulation 6 (FCA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
  - (3) the other rule and guidance making powers listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA’s Handbook.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.
- C. The FCA consents to and approves the rules and guidance and standard terms made and amended and fixed and varied by the Financial Ombudsman Service Limited, as set out in paragraph D.

**Powers exercised by the Financial Ombudsman Service Limited**

- D. The Financial Ombudsman Service Limited makes and amends the rules and guidance for the Voluntary Jurisdiction and fixes and varies the standard terms for Voluntary Jurisdiction participants, as set out in Annex D to this instrument, and to incorporate the changes to the Glossary as set out in Annex A to this instrument, in the exercise of the following powers and related provisions in the Act:
- (1) section 227 (Voluntary jurisdiction);
  - (2) paragraph 8 (Information, advice and guidance) of Schedule 17;
  - (3) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
  - (4) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.

- E. The making and amendment of the rules and guidance and the fixing and varying of the standard terms by the Financial Ombudsman Service Limited, as set out at paragraph D above, is subject to the consent and approval of the FCA.

### **Commencement**

- F. This instrument comes into force on 2 August 2024.

### **Amendments to the Handbook**

- G. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Client Assets sourcebook (CASS)	Annex C
Dispute Resolution: Complaints sourcebook (DISP)	Annex D
Collective Investment Schemes sourcebook (COLL)	Annex E

### **Amendments to material outside the Handbook**

- H. The Perimeter Guidance manual (PERG) is amended in accordance with Annex F to this instrument

### **Notes**

- I. In the Annexes to this instrument, the notes (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

### **Citation**

- J. This instrument may be cited as the Dormant Assets (Collective Investment Schemes and Client Money) Instrument 2024.

By order of the Board of the Financial Conduct Authority  
25 July 2024

By order of the Board of the Financial Ombudsman Service Limited  
22 July 2024

## Annex A

### Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>eligible CIS amount</i>	an ‘eligible amount owing by virtue of a collective scheme investment’ as defined in section 9 of the Dormant Assets Act 2022, but excluding an amount within section 9(4) of the Dormant Assets Act 2022.  [ <b>Note:</b> section 9(4) of the Dormant Assets Act 2022 excludes from an ‘eligible amount owing by virtue of a collective scheme investment’ an amount held in a <i>lifetime ISA</i> which, if transferred to a <i>dormant asset fund operator</i> , would result in a liability to pay a withdrawal charge to HM Revenue and Customs.]
<i>eligible distribution of income</i>	an <i>eligible CIS amount</i> within section 9(3)(c) of the Dormant Assets Act 2022.
<i>eligible redemption proceeds</i>	an <i>eligible CIS amount</i> within section 9(3)(b) of the Dormant Assets Act 2022.
<i>orphan monies</i>	an <i>eligible CIS amount</i> within section 9(3)(d) and (6) of the Dormant Assets Act 2022.
<i>unwanted asset money</i>	an <i>eligible CIS amount</i> which is an unwanted asset for the purposes of section 21 of the Dormant Assets Act 2022.

Amend the following definitions as shown.

<i>client</i>	...
	(B) in the <i>FCA Handbook</i> :
	...
	(6) (in relation to a <del><i>dormant account money</i></del> transferred to a <del><i>dormant account fund operator</i></del> <u><i>dormant asset fund operator</i></u> ) a person entitled to the <del><i>balance in the dormant account held with a bank or building society which was transferred to a dormant account fund operator</i></del> <u>make a repayment claim</u> .
	...

<i>dormant asset</i>	... (3) ... (4) <u>(in relation to an eligible amount owing by virtue of a collective scheme investment (see section 9(2) of the Dormant Assets Act 2022)) an eligible CIS amount which is dormant in accordance with section 10 of the Dormant Assets Act 2022.</u>
<i>managing dormant asset funds (including the investment of such funds)</i>	relevant parts of the <i>regulated activity</i> in article 63N(1)(b) of the <i>Regulated Activities Order</i> <u>which</u> means: (a) the acceptance of transfers of amounts as mentioned in: (i) section 1(1)(a) or 2(1)(a) of the Dormant Bank and Building Society Accounts Act 2008; or (ii) <del>section</del> <u>sections 2(1)(a) or 5(1)(a), 8(1)(a) or 12(1)(a)</u> of the Dormant Assets Act 2022; <del>and</del> ... (1) a <i>firm</i> (including a <i>TP firm</i> ) other than: ... (n) ... (o) <u>a dormant asset fund operator;</u> ... a claim for repayment made by virtue of: (1) sections 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008; <del>or of</del> (2) sections 2(2)(b), <del>(3)(b)</del> , 5(2)(b), <u>5(3)(b), 8(2)(b) and 11, 12(2)(b)</u> or 14(2)(b) of the Dormant Assets Act 2022.
<i>repayment claim</i>	...

Delete the following definition. The text is not shown struck through.

<i>dormant asset funds</i>	(1) (in relation to a <i>bank</i> or <i>building society</i> ) has the meaning given in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008, which is <i>money</i> paid to a <i>dormant asset fund operator</i> by a <i>bank</i> or <i>building society</i> in respect of a <i>dormant asset</i> ; or (2) (in relation to <i>long-term insurance contract</i> , and an insurance institution as defined in section 2 of the Dormant Assets Act 2022)
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is *money* paid to a *dormant asset fund operator* by an *insurer* in accordance with section 2(1) of the Dormant Assets Act 2022; or

- (3) (in relation to a *personal pension scheme*, and a pensions institution as defined in section 5 of the Dormant Assets Act 2022) is *money* paid to a *dormant asset fund operator* by an *operator* of a *personal pension scheme* in accordance with section 5(1) of the Dormant Assets Act 2022.

**Annex B**

**Amendments to the Fees manual (FEES)**

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

**6 Financial Services Compensation Scheme Funding**

...

**6 Annex 3AR Financial Services Compensation Scheme - classes and categories**

...

<b>Class 2</b>	<b>Investment Intermediation Claims</b>
...	
<b>Category 2.4</b>	<b>Structured deposits provision</b>
<b>Firms with permission for:</b>	<i>accepting deposits and/or <del>operating a dormant asset fund</del>. BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i>.</i>
...	

<b>Class 6</b>	<b>Deposit acceptors' contribution</b>
<b>Firms with permission for:</b>	<i>accepting deposits and/or <del>operating a dormant asset fund</del>. BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i>.</i>
...	

...

## Annex C

### Amendments to the Client Assets sourcebook (CASS)

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

#### 5 Client money: insurance distribution activity

...

#### 5.5 Segregation and the operation of client money accounts

...

Discharge of fiduciary duty

...

5.5.80 R Money ceases to be *client money* if it is paid:

...

(5) to the *firm* itself, when it is an excess in the *client bank account* as set out in CASS 5.5.63R(1)(b)(ii); ~~or~~

(6) to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R.

5.5.81 G ...

(4) ...

(5) A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a *dormant asset fund operator* that has *Part 4A permission for dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of CASS 5.5.80R(2).

...

5.5.84 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

5.5.85 R A firm may transfer a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be *client money* under CASS 5.5.80R(6), provided that the *firm* can demonstrate it took reasonable steps

to trace the *client* concerned and to return the balance prior to making such a transfer.

- 5.5.86 E (1) (a) This paragraph applies where the balance of *client money* in question is of a minimal amount. For these purposes, a ‘minimal amount’ means either:
- (i) in respect of a balance held for a *consumer*, £25 or less in aggregate; or
  - (ii) in respect of a balance held for a *commercial customer*, £100 or less in aggregate.
- (b) Where the balance of *client money* in question is of a minimal amount, taking reasonable steps in CASS 5.5.85R includes the *firm* making at least one attempt to contact the *client* to return the balance (using the most up-to-date contact details the *firm* has for the *client*) and allowing the *client* 28 days to respond.
- (2) This paragraph applies in all other cases where paragraph (1) does not apply. In all other such cases, taking reasonable steps in CASS 5.5.85R includes following this course of conduct:
- (a) determining, as far as reasonably possible, the correct contact details for the relevant *client*;
  - (b) writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm*’s intention to no longer treat the *client money* balance as *client money* and to transfer the sums concerned to a *dormant asset fund operator* if the *firm* does not receive instructions from the *client* within 28 days (naming the specific relevant *dormant asset fund operator*);
  - (c) where the *client* has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b), including by post, electronic mail, telephone or media advertisement;
  - (d) subject to (e) and (f), where the *client* has not responded within 28 days following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them:
    - (i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and



- (ii) of the steps that they must take to make a *repayment claim*;
  - (e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
  - (f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and
  - (g) waiting a further 28 days following the most recent communication under this rule before transferring the balance to the *dormant asset fund operator*.
- (3) Compliance with (1) or (2) (as applicable) may be relied on as tending to establish compliance with CASS 5.5.85R.
- (4) Contravention of (1) or (2) (as applicable) may be relied on as tending to establish contravention of CASS 5.5.85R.
- 5.5.87 G (1) Unless the *firm* has failed and CASS 5.3.2R(4) or CASS 5.4.7R(4) applies (as applicable), any costs associated with a *firm* ceasing to treat unclaimed *client money* balances as *client money* pursuant to CASS 5.5.85R should be paid for from the *firm's* own funds.
- (2) When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *client money rules* and the *client money (insurance) distribution rules*.

## 5.6 Client money distribution

...

Pooling and distribution

5.6.7 R If a *primary pooling event* occurs:

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- (2) the *firm* must distribute that *client money* in accordance with CASS 5.3.2R or, as appropriate, CASS 5.4.7R, so that each *client* receives a sum which is rateable to the *client money* entitlement calculated in accordance with CASS 5.5.66R; and

- (3) the *firm* must, as trustee, call in and make demand in respect of any debt due to the *firm* as trustee, and must liquidate any *designated investment*, and any letter of credit or guarantee upon which it relies for meeting any *shortfall* in its *client money* resource and the proceeds shall be pooled together with other *client money* as in (1) and distributed in accordance with (2); and;
- (4) (a) subject to (b), as an alternative to distributing a *client's client money* to them under (2), a *firm* may transfer all of that *client's client money* to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R; and
- (b) as a consequence of any such transfer to a *dormant asset fund operator*, the *firm* must not distribute to any other *client* an amount of *money* that would be less than that which such other *client* was entitled to have distributed under this rule.

5.6.7A G The purpose of CASS 5.6.7R(4)(b) is to ensure that where a particular *client's client money* is transferred under CASS 5.5.7R(4)(a) to a *dormant asset fund operator*, such a transfer does not prejudice any other *client*. This means, for example, that the amount that may be transferred to a *dormant asset fund operator* under that provision should take account of any *shortfall* that affects the relevant *clients*.

...

5.6.12 G ...

Closing a client money pool - transfers to dormant asset fund operator

- 5.6.12A R (1) This rule applies to a *firm* which, prior to a *primary pooling event*, had put in place contractual or other arrangements with a *dormant asset fund operator* of the sort described at section 23 of the Dormant Assets Act 2022.
- (2) If, having attempted to, a *firm* is unable to distribute a balance of *client money* in accordance with CASS 5.6.7R to the relevant *client*, it must attempt to transfer the balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R.
- 5.6.12B G (1) A *firm* may be unable to distribute a balance of *client money* in accordance with CASS 5.6.7R for reasons including that:
- (a) the *firm* is unable to trace the relevant *client*; or
- (b) despite the *firm* making enquiries, the relevant *client* has not provided the *firm* with instructions that would enable the *firm* to make a distribution.

(2) Where the *firm* transfers a balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R, it may cease to treat the balance as *client money* under CASS 5.5.80R(6).

(3) In attempting to transfer the balance to a *dormant asset fund operator* under CASS 5.6.12AR(2), the *firm* should begin by seeking confirmation from the relevant *dormant asset fund operator* as to whether or not it would be in a position to accept the balance.

...

## 7 Client money rules

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### 7.11 Treatment of client money

...

#### Discharge of fiduciary duty

...

7.11.34 R *Money* ceases to be *client money* (having regard to CASS 7.11.40R where applicable) if:

...

(9) it is transferred by the *firm* to a *clearing member* in connection with a *regulated clearing arrangement* and the *clearing member* remits payment directly to the *indirect clients* of the *firm* in accordance with CASS 7.11.37R(2); ~~or~~

(10) it is paid to charity under CASS 7.11.50R or CASS 7.11.57R-; or

(11) it is transferred to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR.

...

#### Allocated but unclaimed client money

7.11.47A R CASS 7.11.48G to CASS 7.11.58G do not apply to a *firm* following a *primary pooling event*, except for CASS 7.11.57AR to CASS 7.11.57CG and CASS 7.11.58G (insofar as it is relevant to CASS 7.11.57AR).

...

7.11.57 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

7.11.57A R A firm may transfer a client money balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be client money under CASS 7.11.34R(11), provided that the firm can demonstrate it took reasonable steps to trace the client concerned and to return the balance prior to making such a transfer.

- 7.11.57B E (1) (a) This paragraph applies where the balance of client money in question is of a minimal amount. For these purposes, a 'minimal amount' means either:
- (i) in respect of a balance held for a retail client, £25 or less in aggregate; or
  - (ii) in respect of a balance held for a professional client, £100 or less in aggregate.
- (b) Where the balance of client money in question is of a minimal amount, taking reasonable steps in CASS 7.11.57AR includes the firm making at least one attempt to contact the client to return the balance (using the most up-to-date contact details the firm has for the client) and allowing the client 28 days to respond.
- (2) This paragraph applies in all other cases where paragraph (1) does not apply. In all other such cases, taking reasonable steps in CASS 7.11.57AR includes following this course of conduct:
- (a) determining, as far as reasonably possible, the correct contact details for the relevant client;
  - (b) writing to the client at the last known address either by post or by electronic mail to inform it of the firm's intention to no longer treat the client money balance as client money and to transfer the sums concerned to a dormant asset fund operator if the firm does not receive instructions from the client within 28 days (naming the specific relevant dormant asset fund operator);
  - (c) where the client has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the client on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
  - (d) subject to (e) and (f), where the client has not responded within 28 days following the most recent communication,

writing again to the *client* at the last known address either by post or by electronic mail to inform them:

(i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and

(ii) of the steps that they must take to make a *repayment claim*;

(e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);

(f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and

(g) waiting a further 28 days following the most recent communication under this rule before transferring the balance to the *dormant asset fund operator*.

(3) Compliance with (1) or (2) (as applicable) may be relied on as tending to establish compliance with CASS 7.11.57AR.

(4) Contravention of (1) or (2) (as applicable) may be relied on as tending to establish contravention of CASS 7.11.57AR.

7.11.57C G When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *client money rules* and the *client money distribution and transfer rules*.

Costs associated with paying away allocated but unclaimed client money

7.11.58 G Any costs associated with the *firm* ceasing to treat unclaimed *client money* balances as *client money* pursuant to CASS 7.11.50R to ~~CASS 7.11.57R~~ CASS 7.11.57BE should be paid for from the *firm's* own funds, including:

(1) any costs associated with the *firm* carrying out the steps in CASS 7.11.50R(3), CASS 7.11.51G ~~or~~, CASS 7.11.57R(3) or CASS 7.11.57AR; and

...

Unwanted client money

7.11.59 G A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a *dormant asset fund operator* that has *Part 4A permission* for *dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of CASS 7.11.34R(2)(a).

...

**7A Client money distribution and transfer**

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**7A.2 Primary pooling events**

...

Pooling and distribution or transfer

7A.2.4 R If a *primary pooling event* occurs, then:

...

(2) the *firm* must, as soon as reasonably practicable:

(a) (subject to ~~paragraph~~ paragraphs (4) and (5)) distribute *client money* comprising a notional *pool* in accordance with CASS 7.17.2R, so that each *client* who is a beneficiary of that *pool* receives a sum which is rateable to the *client money* entitlement calculated in accordance with CASS 7A.2.5R (Client money entitlements); or

...

...

(4) ...

...

(e) ...

...

(iii) where regulation 10C(3) of the *IBSA Regulations* does not apply, that the *client* has the option of having its *money* returned to it by Firm B; and

(5) (a) subject to (b), as a further alternative to distributing a *client's client money* in a notional *pool* to the relevant *client* under CASS 7A.2.4R(2)(a) and in respect of *client money* that is not

required to be transferred under CASS 7A.2.4R(2)(b), a firm may transfer all of that client's client money in the relevant notional pool to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR; and

- (b) as a consequence of any such transfer to a dormant asset fund operator, the firm must not distribute to any other client whose client money is in that notional pool, or transfer on behalf of any such other client to another person, an amount of money that would be less than that which such other client was entitled to have distributed or transferred under this rule.

7A.2.4A-3 G The purpose of CASS 7A.2.4(4)(a) and (5)(b) is to ensure that where a particular client's client money is transferred (under CASS 7A.2.4R(4) to another person for safekeeping or under CASS 7A.2.4R(5) to a dormant asset fund operator), such a transfer does not prejudice any other client. This means, for example, that the amounts that may be transferred under those provisions should take account of any shortfall that affects the relevant clients.

...

#### Closing a client money pool

7A.2.6A R (1) Before a firm ceases to treat a balance of client money in a notional pool as client money by transferring it to itself under CASS 7.17.2R(5) it must:

...

- (d) ~~immediately before transferring the balances of client money under paragraph (1)(c) to the firm itself, apply them towards making good any outstanding shortfall in the notional pool, and subsequently distribute or transfer them in accordance with CASS 7A.2.4R to or on behalf of clients for whom the firm is able to make such distributions or transfers.~~ carry out the actions in (i) and (ii) in the following order:
- (i) attempt to transfer them to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR (but this only applies if, prior to a primary pooling event, the firm had put in place contractual or other arrangements with a dormant asset fund operator of the sort described at section 23 of the Dormant Assets Act 2022); and
- (ii) apply any remaining balances towards making good any outstanding shortfall in the notional pool, and subsequently distribute or transfer them in accordance

with CASS 7A.2.4R to or on behalf of *clients* for whom the *firm* is able to make such distributions or transfers.

...

...

## 11 Debt management client money chapter

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### 11.4 Definition of client money and the discharge of fiduciary duty

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11.4.2 R *Money* ceases to be *client money* if:

...

(5) it is paid to the *firm* as an excess in the *client bank account* (see CASS 11.11.12R(2) and CASS 11.11.23R(3)); or

(6) it is transferred to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

...

11.4.4 G ...

11.4.5 G A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a *dormant asset fund operator* that has *Part 4A permission* for *dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of CASS 11.4.2R(2)(a).

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

11.4.6 R A *firm* may transfer a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be *client money* under CASS 11.4.2R(6), provided that the *firm* can demonstrate it took reasonable steps to trace the *client* concerned and to return the balance prior to making such a transfer.

11.4.7 E (1) Taking reasonable steps in CASS 11.4.6R includes following this course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant *client*;



- (b) writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm's* intention to no longer treat the *client money* balance as *client money* and to transfer the sums concerned to a *dormant asset fund operator* if the *firm* does not receive instructions from the *client* within 28 days (naming the specific relevant *dormant asset fund operator*);
  - (c) where the *client* has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
  - (d) subject to (e) and (f), where the *client* has not responded within 28 days following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them:
    - (i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and
    - (ii) of the steps that they must take to make a *repayment claim*;
  - (e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
  - (f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and
  - (g) waiting a further 28 days following the most recent communication under this *rule* before transferring the balance to the *dormant asset fund operator*.
- (2) Compliance with (1) may be relied on as tending to establish compliance with CASS 11.4.6R.
- (3) Contravention of (1) may be relied on as tending to establish contravention of CASS 11.4.6R.
- 11.4.8 G (1) Unless the *firm* has *failed* and CASS 11.6.1R(3) applies, any costs associated with a *firm* ceasing to treat unclaimed *client money*

balances as *client money* pursuant to CASS 11.4.5R should be paid for from the *firm's* own funds.

- (2) When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *debt management client money rules* and the *debt management client money distribution rules*.

...

### 11.13 Client money distribution in the event of a failure of a firm or approved bank

...

Distribution if client money not transferred to another firm

11.13.5 R ...

11.13.5A R (1) Subject to (2), as an alternative to distributing a *client's client money* to them under CASS 11.13.5R, a *firm* may transfer all of that *client's client money* to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

- (2) As a consequence of any such transfer to a *dormant asset fund operator*, the *firm* must not distribute to any other *client* an amount of *money* that would be less than that which such other *client* was entitled to have distributed under CASS 11.13.5R.

11.13.5B G The purpose of CASS 11.13.5AR(2) is to ensure that where a particular *client's client money* is transferred under CASS 11.13.5AR(1) to a *dormant asset fund operator*, such a transfer does not prejudice any other *client*. This means, for example, that the amount that may be transferred to a *dormant asset fund operator* under that provision should take account of any *shortfall* that affects the relevant *clients*.

...

11.13.9 R ...

Closing a client money pool - transfers to dormant asset fund operator

11.13.9A R (1) This rule applies to a *firm* which, prior to a *primary pooling event*, had put in place contractual or other arrangements with a *dormant asset fund operator* of the sort described at section 23 of the Dormant Assets Act 2022.

(2) If, having attempted to, a *firm* is unable to distribute a balance of *client money* in accordance with CASS 11.13.5R to the relevant *client*, it must attempt to transfer the balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

11.13.9B G (1) A *firm* may be unable to distribute a balance of *client money* in accordance with CASS 11.13.5R for reasons including that:

(a) the *firm* is unable to trace the *client*; or

(b) despite the *firm* making enquiries, the relevant *client* has not provided the *firm* with instructions that would enable the *firm* to make a distribution.

(2) Where the *firm* transfers a balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R, it may cease to treat the balance as *client money* under CASS 11.4.2R(6).

(3) In attempting to transfer the balance to a *dormant asset fund operator* under CASS 11.13.9AR(2), the *firm* should begin by seeking confirmation from the relevant *dormant asset fund operator* as to whether or not it would be in a position to accept the balance.

...

### 13 Claims management: client money

...

#### 13.9 Discharge of fiduciary duty

...

13.9.2 R *Money* ceases to be *client money* if:

...

(5) it is paid to the *firm* as an excess in the *client bank account* (see CASS 13.10.15R(3)); or

(6) it is transferred to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.

13.9.3 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

- 13.9.4     R     A firm may transfer a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be *client money* under CASS 13.9.42R(6), provided that the *firm* can demonstrate it took reasonable steps to trace the *client* concerned and to return the balance prior to making such a transfer.
- 13.9.5     E     (1)     Taking reasonable steps in CASS 13.9.4R includes following this course of conduct:
- (a)     determining, as far as reasonably possible, the correct contact details for the relevant *client*;
  - (b)     writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm*'s intention to no longer treat the *client money* balance as *client money* and to transfer the sums concerned to a *dormant asset fund operator* if the *firm* does not receive instructions from the *client* within 28 days (naming the specific relevant *dormant asset fund operator*);
  - (c)     where the *client* has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
  - (d)     subject to (e) and (f), where the *client* has not responded within 28 days following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them:
    - (i)     that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and
    - (ii)    of the steps that they must take to make a *repayment claim*;
  - (e)     if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
  - (f)     if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and

(g) waiting a further 28 days following the most recent communication under this rule before transferring the balance to the dormant asset fund operator.

(2) Compliance with (1) may be relied on as tending to establish compliance with CASS 13.9.4R.

(3) Contravention of (1) may be relied on as tending to establish contravention of CASS 13.9.4R.

13.9.6    G    (1) Unless the firm has failed and CASS 13.3.1R(3) applies, any costs associated with a firm ceasing to treat unclaimed client money balances as client money pursuant to CASS 13.9.4R should be paid for from the firm's own funds.

(2) When transferring a client money balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a firm will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the claims management client money rules and the claims management client money distribution rules.

...

## **13.11 Client money distribution in the event of a failure of a firm or approved bank**

...

Distribution if client money not transferred to another firm

13.11.5    R    ...

13.11.5A    R    (1) Subject to (2), as an alternative to distributing a client's client money to them under CASS 13.11.5R, a firm may transfer all of that client's client money to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.

(2) As a consequence of any such transfer to a dormant asset fund operator, the firm must not distribute to any other client an amount of money that would be less than that which such other client was entitled to have distributed under CASS 13.11.5R.

13.11.5B    G    The purpose of CASS 13.11.5AR(2) is to ensure that where a particular client's client money is transferred under CASS 13.11.5R(1) to a dormant asset fund operator, such a transfer does not prejudice any other client. This means, for example, that the amount that may be transferred to a dormant asset fund operator under that provision should take account of any shortfall that affects the relevant clients.

...

13.11.10 R ...

Closing a client money pool - transfers to dormant asset fund operator

13.11.10 R (1) This rule applies to a firm which, prior to a primary pooling event, had put in place contractual or other arrangements with a dormant asset fund operator of the sort described at section 23 of the Dormant Assets Act 2022.

A

(2) If, having attempted to, a firm is unable to distribute a balance of client money in accordance with CASS 13.11.5R to the relevant client, it must attempt to transfer the balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.

13.11.10 G (1) A firm may be unable to distribute a balance of client money in accordance with CASS 13.11.5R for reasons including that:

B

(a) the firm is unable to trace the client; or

(b) despite the firm making enquiries, the relevant client has not provided the firm with instructions that would enable the firm to make a distribution.

(2) Where the firm transfers a balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R, it may cease to treat the balance as client money under CASS 13.9.2R(6).

(3) In attempting to transfer the balance to a dormant asset fund operator under CASS 13.11.10AR(2), the firm should begin by seeking confirmation from the relevant dormant asset fund operator as to whether or not it would be in a position to accept the balance.

...

## Annex D

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

## 2 Jurisdiction of the Financial Ombudsman Service

...

### 2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

2.3.1 R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *firm* in carrying on one or more of the following activities:

- (1) *regulated activities* (other than *auction regulation bidding* ~~and~~, *administering a benchmark* and dealing with unwanted asset money);

...

...

### 2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

...

- (2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

...

- (c) activities, other than *regulated claims management activities*, activities ancillary to *regulated claims management activities*, *meeting of repayment claims* and *managing dormant asset funds* (including the investment of such funds), which (at ~~1 August 2022~~ 2 August 2024) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);

...

...

...

2.7 Is the complainant eligible?

...

Eligible complainants

...

2.7.6 R To be an *eligible complainant* a *person* must also have a *complaint* which arises from matters relevant to one or more of the following relationships with the *respondent*:

...

(14A) (where the *respondent* is a *dormant asset fund operator*) subject to ~~DISP 2.7.6AR~~ DISP 2.7.6AR(1), the complainant is (or was) a *person* to whom the proceeds of a *long-term insurance contract* were payable by an *insurer*, but which instead were transferred by the *insurer* to the *respondent*;

(14B) ...

(14C) (where the *respondent* is a *dormant asset fund operator*) the complainant is (or was) a *person* to whom an *eligible CIS amount* was owing immediately before it was transferred to the *respondent* by the *authorised fund manager* or *depository* of an *authorised fund*;

(14D) (where the *respondent* is a *dormant asset fund operator*) subject to DISP 2.7.6AR(2), the complainant is (or was) a *person* for whom a *firm* was holding *client money* immediately before it was transferred to the *respondent* by that *firm*;

...

2.7.6A R (1) DISP 2.7.6R(14A) does not include proceeds of a *contract of insurance* held in a *lifetime ISA* if their transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

(2) DISP 2.7.6R(14D) does not include *client money* held in a *lifetime ISA* if its transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

...

2 **Regulated Activities for the Voluntary Jurisdiction at ~~1 August 2022~~ 2 August**  
Annex **2024**  
1



**This table belongs to *DISP 2.5.1R***

The activities which were covered by the *Compulsory Jurisdiction* (at ~~1 August 2022~~ 2 August 2024) were:

- (1) for *firms*:
- (a) *regulated activities* (other than *auction regulation bidding*, ~~and administering a benchmark~~ and dealing with unwanted asset money);

...

...

The activities which (at ~~1 August 2022~~ 2 August 2024) were *regulated activities* were, in accordance with section 22 of the *Act* (Regulated Activities), any of the following activities specified in Part II and Parts 3A and 3B of the *Regulated Activities Order* (with the addition of *auction regulation bidding*, ~~and administering a benchmark~~ and dealing with unwanted asset money):

...

...

**4 Standard terms**

...

**4.2 Standard terms**

...

Application of DISP 1 to DISP 3

- 4.2.3 R The following rules and guidance apply to *VJ participants* as part of the *standard terms*, except where the context requires otherwise:

...

- (2) *DISP 2* (Jurisdiction of the Financial Ombudsman Service), except:

...

- (b) ~~*DISP 2.7.6(14)*~~ *DISP 2.7.6R(14)*;
- (c) ~~*DISP 2.7.6(14A)*~~ *DISP 2.7.6R(14A)*;
- (d) ~~*DISP 2.7.6(14B)*~~; ~~and~~ *DISP 2.7.6R(14B)*;
- (e) *DISP 2.7.6R(14C)*;

- (f) DISP 2.7.6R(14D);
- (g) DISP 2.7.6AR(1); and
- (h) DISP 2.7.6AR(2); and

...

...

## Annex E

### Amendments to the Collective Investment Schemes sourcebook (COLL)

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

#### 3 Constitution

...

#### 3.2 The instrument constituting the fund

...

Table: contents of the instrument constituting the fund

3.2.6 R This table belongs to *COLL 3.2.4R* (Matters which must be included in the instrument constituting the fund).

...		
		<b>Investment in overseas property through an intermediate holding vehicle</b>
28		...
		<b><u>Transfers to a dormant asset fund operator</u></b>
29	(1)	<u>Where relevant, a statement that the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> may transfer an <i>eligible CIS amount</i> which is a <i>dormant asset</i> to a <i>dormant asset fund operator</i>, specifying the particular types of <i>eligible CIS amounts</i> which may be so transferred.</u>
	(2)	<u>Where relevant, a statement detailing the power of the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> to convert one or more <i>units</i> into a right to payment of an amount for transfer to a <i>dormant asset fund operator</i>, and a description of a <i>person's</i> right to make a <i>repayment claim</i> in relation to the amount transferred.</u>
	(3)	<u>Where relevant, a statement that the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> may transfer <i>unwanted asset money</i> to a <i>dormant asset fund operator</i>, and a description of the circumstances in which such <i>money</i> may be transferred.</u>
		<u>[Note: In relation to transfers to a <i>dormant asset fund operator</i>, see <i>COLL 3.2.6AR</i>.]</u>

Transfers to a dormant asset fund operator

3.2.6A R If the *authorised fund manager* or (where relevant) the *depository* intends to make transfers of *eligible CIS amounts* that are *dormant assets* or *unwanted asset money* to a *dormant asset fund operator*, or intends to take a power of the type referred to in *COLL 3.2.6R(29)(2)*, the applicable statements in *COLL 3.2.6R(29)(1), (2) and (3)* must be included.

...

**4 Investor Relations**

...

**4.2 Pre-sale notifications**

...

Table: contents of the prospectus

4.2.5 R This table belongs to *COLL 4.2.2R* (Publishing the prospectus).

...			
<b>Reporting, distributions and accounting dates</b>			
4	Relevant details of the reporting, accounting and distribution information which includes:		
	...		
	(b)	procedures for:	
		...	
		(ii)	<u>unclaimed or unwanted distributions; and, including any arrangements for the transfer of:</u>
		(A)	<u>an unclaimed eligible distribution of income that is a dormant asset (see COLL 6.8.4R (Unclaimed, de minimis and joint unitholder distributions)); or</u>
		(B)	<u>unwanted asset money (see COLL 6.8.4AR (Unwanted asset money)); and</u>
		...	
	...		

...	
<b>Dealing</b>	
17	...
<b><u>Transfers to a dormant asset fund operator</u></b>	
<b>17A</b>	<u>If the authorised fund manager or the depositary of the authorised fund has a power under the instrument constituting the fund to transfer an eligible CIS amount that is a dormant asset to a dormant asset fund operator in accordance with sections 8 to 10 of the Dormant Assets Act 2022, particulars as to:</u>
	(a) <u>the types of such eligible CIS amounts which the authorised fund manager or the depositary may transfer;</u>
	(b) <u>the circumstances in which an amount in (a) is a dormant asset, and any steps that the authorised fund manager or the depositary must take before making a transfer;</u>
	(c) <u>if the authorised fund manager or the depositary has a power to convert a unit into a right to payment of an amount in accordance with section 9(3) and (5) of the Dormant Assets Act 2022, an explanation of that power, including the circumstances in which the power may be exercised;</u>
	(d) <u>the consequences for the unitholder of a transfer of an eligible CIS amount, including how the amount of a repayment claim will be determined;</u>
	(e) <u>information about the steps a person would need to take to establish and make a repayment claim, and to receive payment of the money; and</u>
	(f) <u>the basis on which a person who has made a repayment claim may apply for the repaid amount or any part of it to be reinvested in units.</u>
<b>17B</b>	<u>If the authorised fund manager or the depositary has a power under the instrument constituting the fund to transfer unwanted asset money to a dormant asset fund operator in accordance with section 21 of the Dormant Assets Act 2022, particulars as to:</u>
	(a) <u>the circumstances in which a person may inform the authorised fund manager or the depositary that they wish an eligible CIS amount to be transferred as unwanted asset money to a dormant asset fund operator;</u>
	(b) <u>how a person in (a) may obtain information from the authorised fund manager or the depositary about the</u>

		<u>procedure by which they may ask for such <i>money</i> to be transferred;</u>
	(c)	<u>the declaration that the <i>person</i> will need to make before the <i>money</i> can be transferred as <i>unwanted asset money</i>;</u>
	(d)	<u>the consequences of the <i>money</i> being transferred to a <i>dormant asset fund operator</i>; and</u>
	(e)	<u>what happens if the <i>dormant asset fund operator</i> does not consent to the transfer of the <i>money</i>.</u>
...		

...

## 6 Operating duties and responsibilities

...

### 6.2 Dealing

...

#### Payment for cancelled units

6.2.14 R (1) On cancelling *units* the *authorised fund manager* must, before the expiry of the fourth *business day* following the *cancellation* of the *units* or, if later, as soon as practicable after delivery to the *depository* of the *AUT* or *ACS* or the *ICVC* of such evidence of title to the *units* as it may reasonably require, require the *depository* to pay:

...

(c) in the case of a *regulated money market fund*, the sum required pursuant to article 33 of the *Money Market Funds Regulation*;

~~to the *authorised fund manager* or, where relevant, the *unitholder* or, for a *relevant pension scheme*, in accordance with the relevant provisions of the *trust deed* or *contractual scheme deed* in accordance with (1A).~~

(1A) The *depository* must pay the amount in (1):

(a) to the *authorised fund manager*;

(b) where relevant, to the *unitholder*;

- (c) for a relevant pension scheme, in accordance with the relevant provisions of the trust deed or contractual scheme deed; or
- (d) where the amount relates to an eligible CIS amount that is a dormant asset arising from the conversion of units (see section 9(3)(a) of the Dormant Assets Act 2022), either:
  - (i) to the authorised fund manager (for onward payment to a dormant asset fund operator); or
  - (ii) where relevant, to the dormant asset fund operator.

...

...

#### Sale and redemption

6.2.16 R ...

(10) ...

(11) Paragraph (4) does not apply where COLL 6.2.17AR (Transfers under the Dormant Assets Act 2022) applies.

#### Sale and redemption: guidance

6.2.17 G ...

#### Transfers under the Dormant Assets Act 2022

6.2.17A R (1) This rule applies where the authorised fund manager or the depositary of an authorised fund transfers to a dormant asset fund operator a dormant asset that is:

(a) an amount owing by virtue of the conversion of one or more units into a right to payment (see section 9(3)(a) of the Dormant Assets Act 2022); or

(b) eligible redemption proceeds.

(2) Before a transfer in (1) can be effected, the authorised fund manager must:

(a) take reasonable steps to reunite the relevant eligible CIS amounts to be transferred with their owners (see section 23 of the Dormant Assets Act 2022); and

(b) be satisfied that the eligible CIS amount is a dormant asset.

- (3) Upon effecting a transfer in (1), the *authorised fund manager* (or, where relevant, the *depository*) must ensure that such records as are specified in *COLL* 6.6.6R(6) (Maintenance of records) are retained.

Conversion of units into a right to payment under the Dormant Assets Act 2022

- 6.2.17B R (1) This rule applies where the *authorised fund manager* or the *depository* converts one or more *units* into a right to payment for transfer to a *dormant asset fund operator* in accordance with *COLL* 6.2.17AR and sections 8 to 10 of the Dormant Assets Act 2022.
- (2) On conversion of *units* into a right to payment the *authorised fund manager* or the *depository* must:
- (a) effect a *redemption* of *units*; and
- (b) transfer the *eligible CIS amount* to a *dormant asset fund operator*.
- 6.2.17C G (1) Section 10 of the Dormant Assets Act 2022 specifies when an *eligible CIS amount* is *dormant* and may be transferred to a *dormant asset fund operator* in accordance with the applicable provisions of the dormant assets scheme established by that Act.
- (2) An *eligible CIS amount* that is a *dormant asset* should be transferred to a *dormant asset fund operator* only as provided for in the *instrument constituting the fund* and the *prospectus*.
- (3) When taking reasonable steps to reunite owners with their *eligible CIS amounts* under *COLL* 6.2.17AR(2)(a), the *authorised fund manager* should comply with any arrangements it has entered into with the *dormant asset fund operator* (see section 23 of the Dormant Assets Act 2021) and have regard to industry standards of good practice.

...

**6.6 Powers and duties of the scheme, the authorised fund manager, and the depository**

...

Maintenance of records

- 6.6.6 R (1) ~~The~~ Subject to (5) and (6), the *authorised fund manager* must make and retain for six years such records as enable:
- ...
- (2) ~~The~~ Subject to (5) and (6), the *authorised fund manager* must make and retain for six years a daily record of the *units* in the *scheme* held, acquired or disposed of by the *authorised fund manager*,



including the *classes* of such *units*, and of the balance of any acquisitions and disposals.

...

(4) ...

(5) Where the authorised fund manager or the depositary transfers an eligible CIS amount which is a dormant asset or unwanted asset money to a dormant asset fund operator, the authorised fund manager must retain the relevant records specified in (6) for a period of six years from the date on which:

(a) (in relation to the transfer of a dormant asset) the person to whom those records relate made a repayment claim; or

(b) (in relation to unwanted asset money) the person confirmed their wish for the unwanted asset money to be transferred.

(6) (a) Whenever an eligible CIS amount is transferred to a dormant asset fund operator, the records to be retained under (5) include:

(i) the full names of each relevant unitholder; and

(ii) the name of the scheme to which the converted units relate, including, where the scheme is a sub-fund, the name of its umbrella.

(b) Where the eligible CIS amount falls within section 9(3)(a) of the Dormant Assets Act 2022 (an amount owing by virtue of the conversion of one or more units into a right to payment), the records must also include:

(i) the number and class of units converted;

(ii) the date on which the units were converted and the price per unit;

(iii) a record of any interest due, fees and charges that would have been paid and any other adjustments (such as a dilution levy) in respect of the converted units that would affect the amount of a repayment claim; and

(iv) for the period beginning with the date of the conversion of units and ending with the date on which a person establishes a repayment claim in respect of the units;

- (A) in the case of a *class* of *units* which pays income, a record of the distribution rate per *unit* for each distribution of income paid;
  - (B) in the case of any sub-division or consolidation of *units*, or any mandatory conversion of *units* from one *class* to another *class* of the same *authorised fund* or *sub-fund*, a record of the basis of calculation for the action; and
  - (C) in the case of the *cancellation* of all *units* in the *authorised fund* or *sub-fund* under a *scheme of arrangement* by which new *units* are *issued* in another *authorised fund* or *sub-fund* in *exchange*, a record of the basis of calculation for the exchange.
- (c) Where the transfer is of *eligible redemption proceeds*, an *eligible distribution of income* or *orphan monies*, the records must include:
- (i) a note of whether the transfer relates to *eligible redemption proceeds*, an *eligible distribution of income* or *orphan monies*;
  - (ii) where the transfer is of *eligible redemption proceeds*, the date on which the *units* were *redeemed*;
  - (iii) where the transfer is of an *eligible distribution of income*:
    - (A) the distribution date, and the number and *class* of *units* to which the transfer relates; and
    - (B) the distribution rate per *unit* for each distribution paid;
  - (iv) the value of the relevant *eligible CIS amount* transferred; and
  - (v) a record of the interest due, *fees* and *charges* that would have been paid and any other adjustments that would affect the amount of the *repayment claim* in respect of the transferred *eligible CIS amount*.
- (d) Where the transfer is of *unwanted asset money*, the records must include:
- (i) a note that the transfer relates to *unwanted asset money*;

- (ii) the value of the *unwanted asset money* transferred;
- (iii) details of the *unitholder's* confirmation that they wish the *unwanted asset money* to be transferred to a *dormant asset fund operator*; and
- (iv) details of the declaration required by section 21(2)(a)(ii) of the Dormant Assets Act 2022.

...

## 6.8 Income: accounting, allocation and distribution

...

### Unclaimed, de minimis and joint unitholder distributions

- 6.8.4 R (1) ~~Any~~ Unless (4) or COLL 6.8.4AR apply, any distribution remaining unclaimed after a period of six years, or such longer time specified by the *prospectus*, must become part of the *capital property*.

...

- (3) ...

- (4) (a) This paragraph applies where:

- (i) an *eligible distribution of income* remaining unclaimed is a *dormant asset*; and
- (ii) the *instrument constituting the fund* and the *prospectus* permit the transfer of such *money* to a *dormant asset fund operator*.

- (b) Where this paragraph applies:

- (i) the *authorised fund manager* or (where relevant) the *depository* may seek to transfer the unclaimed distribution to a *dormant asset fund operator* in accordance with the *instrument constituting the fund* and the *prospectus*; and
- (ii) if the *depository* makes such a transfer, the requirement in (1) (that the unclaimed distribution becomes part of the *capital property*) does not apply.

### Unwanted asset money

- 6.8.4A R (1) This rule applies where:

- (a) an *eligible distribution of income* is *unwanted asset money*; and

(b) the instrument constituting the fund and the prospectus permit the transfer of such money to a dormant asset fund operator.

(2) Where (1) applies, the authorised fund manager or (where relevant) the depositary may transfer the unwanted asset money to a dormant asset fund operator in accordance with the instrument constituting the fund, the prospectus and section 21 of the Dormant Assets Act 2022.

...

## 7 Suspension of dealings, termination of authorised funds and side pockets

...

### 7.3 Winding up a solvent ICVC and terminating or winding up a sub-fund of an ICVC

...

When an ICVC is to be wound up or a sub-fund terminated or wound up

7.3.4 R ...

(3) An ICVC must not be wound up or a sub-fund terminated under this section:

(a) unless and until effect may be given, under regulation 21 of the *OEIC Regulations*, to proposals to wind up the affairs of the ICVC or to proposals to make the alterations to the ICVC's instrument of incorporation and prospectus that will be required if a sub-fund is terminated; ~~and~~

(b) unless a statement has been prepared and sent or delivered to the FCA under COLL 7.3.5R (Solvency statement) and received by the FCA prior to satisfaction of the condition in (a); and

(c) where a person may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022 in respect of an eligible CIS amount relating to the authorised fund or sub-fund, the ACD and the depositary have ensured that any records required under COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records) are:

(i) accessible by the ACD or the depositary and will be preserved; or

- (ii) transferred to a *dormant asset fund operator* or to another *authorised person* that has undertaken to preserve them.

...

...

Manner of winding up or termination

7.3.7 R ...

- (10) Where any sum of *money* stands to the account of the *ICVC* at the date of its dissolution or a *sub-fund* at the date of its termination, the *ACD* must arrange for the *depository* to pay or lodge that sum within one *month* after that date in accordance with regulation 33(4) or (5) or (6) of the *OEIC Regulations* (Dissolution in other circumstances), where relevant, as applied by regulation 33C of the *OEIC Regulations* (Winding up of sub-funds).

7.3.7A G ...

Transfers of orphan monies to a dormant asset fund operator

- 7.3.7B G (1) Under regulation 33 of the *OEIC Regulations*, where an *ICVC* is dissolved otherwise than by the court, any sum of *money* (including unclaimed distributions) standing to the account of the *ICVC* at the date of the dissolution must be paid into court. This duty does not apply if (or to the extent that) it is transferred to a *dormant asset fund operator* as *orphan monies*.
- (2) Under the Dormant Assets Act 2022, *orphan monies* may be transferred to a *dormant asset fund operator* where they are a *dormant asset*. This means that only the proportion of outstanding *money* that is attributable pro rata to a ‘gone-away’ *person* (see section 10 of the Dormant Assets Act 2022) can be transferred as a *dormant asset*. However, a *person* with whom the *ACD* or the *depository* is still in contact could be invited to donate de minimis amounts as *unwanted asset money* for transfer to the *dormant asset fund operator* (see COLL 6.8.4AR (Unwanted asset money)).
- (3) Where a transfer of *orphan monies* to a *dormant asset fund operator* is possible in accordance with the *instrument constituting the fund*, the *prospectus* and sections 8 and 9 of the Dormant Assets Act 2022, the *FCA* would expect this to be the preferred option for the *ICVC*.

...

**7.4 Winding up an AUT and terminating a sub-fund of an AUT**

...

When an AUT is to be wound up or a sub-fund terminated

7.4.3 R ...

(1A) ...

- (1B) (a) This paragraph applies where a *person* may have a right to make a *repayment claim* under sections 9 to 11 of the *Dormant Assets Act 2022*, in respect of an *eligible CIS amount* relating to the *authorised fund* or *sub-fund*.
- (b) The *AUT* must not be wound up nor the *sub-fund* terminated under this section unless and until the *manager* and *trustee* have ensured that any records required under *COLL* 6.6.6R(5) and *COLL* 6.6.6R(6) (Maintenance of records) are:
- (i) accessible by the *manager* or the *trustee* and will be preserved; or
  - (ii) transferred to a *dormant asset fund operator* or to another *authorised person* that has undertaken to preserve them.

...

Manner of winding up or termination

7.4.4 R ...

(2) In any other case falling within *COLL* 7.4.3R:

...

- (c) any unclaimed net proceeds or other cash (including unclaimed distribution payments) held by the *trustee* after one year from the date on which they became payable must be paid by the *trustee* ~~into court (or, in Scotland, as the court may direct)~~, in accordance with (2A) or (2B), in either case subject to the *trustee* having a right to retain any expenses properly incurred by ~~him~~ them relating to that payment.
- (2A) The *manager* must arrange for the *trustee* to transfer the unclaimed net proceeds or cash referred to in (2)(c) to a *dormant asset fund operator* in accordance with sections 8 and 9 of the *Dormant Assets Act 2022* where:
- (a) the *instrument constituting the fund* and the *prospectus* permit the transfer of unclaimed net proceeds or cash as

referred to in (2)(c) to a dormant asset fund operator as orphan monies; and

(b) the manager is satisfied that the orphan monies are a dormant asset.

(2B) Where, and to the extent that, (2A) does not apply, the unclaimed net proceeds or cash (see (2)(c) above) must be paid by the trustee into court (or, in Scotland, as the court may direct).

...

7.4.4A G ...

Transfers of orphan monies to a dormant asset fund operator

7.4.4B G (1) Under the Dormant Assets Act 2022, orphan monies may be transferred to a dormant asset fund operator where they are a dormant asset. This means that only the proportion of outstanding money that is attributable pro rata to a 'gone-away' person (see section 10 of the Dormant Assets Act 2022) can be transferred in this way.

(2) However, a person with whom the manager or the trustee is still in contact could be invited to donate de minimis amounts as unwanted asset money for transfer to the dormant asset fund operator (see COLL 6.8.4AR (Unwanted asset money)).

...

**7.4A Winding up a solvent ACS and terminating a sub-fund of a co-ownership scheme**

...

When an ACS is to be wound up or a sub-fund of a co-ownership scheme terminated

7.4A.4 R ...

(4) An ACS must not be wound up nor a sub-fund terminated under this section unless the requirements of ~~both (a), and (b)~~ and (where relevant) (c) are satisfied:

...

(b) ...

(c) (i) This sub-paragraph applies where a person may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022, in respect of an

eligible CIS amount relating to the authorised fund or sub-fund.

(ii) The ACS must not be wound up nor the sub-fund terminated under this section unless and until the authorised contractual scheme manager and the depositary have ensured that any records required under COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records) are:

(A) accessible by the authorised fund manager or the depositary and will be preserved; or

(B) transferred to a dormant asset fund operator or to another authorised person that has undertaken to preserve them.

...

...

Manner of winding up or termination

7.4A.6 R ...

(2) In any other case falling within COLL 7.4A.4R:

...

(c) any unclaimed net proceeds or other cash (including unclaimed distribution payments) held by the *depositary* after one year from the date on which they became payable must be paid by the *depositary* ~~into court (or, in Scotland, as the court may direct)~~; in accordance with (2A) or (2B), in either case subject to the depositary having a right to retain any expenses properly incurred by ~~him~~ them relating to that payment.

(2A) The authorised contractual scheme manager must arrange for the depositary to transfer the unclaimed net proceeds or cash referred to in (2)(c) to a dormant asset fund operator in accordance with sections 8 and 9 of the Dormant Assets Act 2022 where:

(a) the instrument constituting the fund and the prospectus permit the transfer of unclaimed net proceeds or cash as referred to in (2)(c) to a dormant asset fund operator as orphan monies; and

(b) the authorised contractual scheme manager is satisfied that the orphan monies are a dormant asset.



(2B) Where, and to the extent that, (2A) does not apply, the unclaimed net proceeds or cash referred to in (2)(c) must be paid by the depositary into court (or, in Scotland, as the court may direct).

...

7.4A.7 G ...

Transfers of orphan monies to a dormant asset fund operator

7.4A.7A G (1) Under the Dormant Assets Act 2022, orphan monies may be transferred to a dormant asset fund operator where they are a dormant asset. This means that only the proportion of outstanding money that is attributable pro rata to a 'gone-away' person (see section 10 of the Dormant Assets Act 2022) can be transferred in this way.

(2) However, a person with whom the authorised contractual scheme manager or the depositary is still in contact could be invited to donate de minimis amounts as unwanted asset money for transfer to the dormant asset fund operator (see COLL 6.8.4AR (Unwanted asset money)).

...

**7.5 Schemes or sub-funds that are not commercially viable**

...

Information to be provided to the FCA

7.5.2 G The information referred to in COLL 7.5.1G is listed below:

...

(9) ...

(9A) where a person who is or was a unitholder in the authorised fund or sub-fund may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022, in respect of an eligible CIS amount relating to that authorised fund or sub-fund, details as to the steps taken by the authorised fund manager to ensure that the relevant records (see COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records)) are preserved;

...

...

## 7.6 Schemes of arrangement

...

Schemes of arrangement: requirements

7.6.2 R ...

Prior transfers under the Dormant Assets Act 2022

7.6.3 R (1) This rule applies where:

- (a) a scheme of arrangement is entered into in relation to a transferor fund or a transferor sub-fund;
- (b) a person who is or was at any time the authorised fund manager or (where relevant) the depositary of the transferor fund or transferor sub-fund transferred eligible CIS amounts as dormant assets to a dormant asset fund operator; and
- (c) such dormant assets are or were attributable to the transferor fund or transferor sub-fund.

(2) The authorised fund manager of the transferor fund or transferor sub-fund must ensure that under the terms of the scheme of arrangement the records required under COLL 6.6.6R(5) and COLL 6.6.6R(6):

- (a) will be properly maintained;
- (b) will be updated, where appropriate; and
- (c) will remain accessible,

so that the amount of any repayment claim can be readily calculated and verified by the appropriate person.

(3) In this rule, ‘transferor fund’ and ‘transferor sub-fund’ have the same meanings as in COLL 7.6.2R.

## 7.7 UCITS mergers

...

Common draft terms of merger

...

7.7.8 G ...

Prior transfers under Dormant Assets Act 2022

- 7.7.8A    R    (1)    This rule applies where:
- (a)    a person who is or was at any time the *authorised fund manager* or (where relevant) the *depository* of a *merging UCITS* transferred *eligible CIS amounts as dormant assets* to the *dormant asset fund operator*; and
  - (b)    such *dormant assets* are or were attributable to the *merging UCITS*.
- (2)    The *authorised fund manager* of the *merging UCITS* must ensure that under the terms of the proposed *UCITS merger* the records required under *COLL 6.6.6R(5)* and *COLL 6.6.6R(6)*:
- (a)    will be properly maintained;
  - (b)    will be updated, where appropriate; and
  - (c)    will remain accessible,
- so that the amount of any *repayment claim* can be readily calculated and verified by the appropriate *person*.

...

## Annex F

### Amendments to the Perimeter Guidance manual (PERG)

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

#### **2 Authorisation and regulated activities**

...

#### **2.7 Activities: a broad outline**

...

2.7.20B G ...

A

Dormant ~~account~~ asset funds

...