



Guidance Note – Eligible Markets

January 2017

Introduction

Managers of Authorised Collective Investment Schemes have a duty of assess whether a particular securities or derivatives market qualifies as an eligible market (under paragraph 35 of the Schedule to the Authorised Collective Investment Schemes Regulations 2010 (“ACIS Regs”)).

Market Criteria

Managers should assess the features of the relevant securities or derivatives market and consider, inter alia, the criteria below. Managers should take legal advice, as appropriate, in order to be satisfied that any given market/exchange is fair, clear, liquid and orderly. The items listed below are not exhaustive.

1. Liquidity of Funds

The manager is required to have regard to the overall liquidity of the market; frequency of trading; whether securities and/or derivatives can be traded at best execution and in adequate amounts; the procedures and restrictions (if they exist) whilst bearing in mind the open-ended nature of a collective investment scheme and the requirement of the ACIS Regs that the manager must redeem units at the request of any qualifying participant.

2. Regulated

The market should be subject to supervision by an authority which should be a statutory body, an agency of national or state Government, a department of such Government, or another body designated for the purpose of one of these. Additionally, a manager will need to take into account:

- a) the degree to which members are subject to formal supervision by the market or another body, and in particular whether that supervision includes levels of capital;
- b) the powers the market and the supervising body to intervene in member’s business in the event of misconduct, financial difficulties or otherwise, including the power to reject applicants, terminate membership and delist a security;
- c) the initial ‘listing’ standards and ongoing supervision of securities traded in the market including the publication of prospectuses and audited annual financial statements;
- d) the everyday availability of current information about securities, derivatives, quotation, transactions, prices and spreads;

- e) requirements for the issue of contract notes (or equivalents);
- f) whether there is a requirement for trade reporting to the market or other supervisory body of the securities/derivatives the manager is intending to buy;
- g) whether the clearance and settlement arrangements normally used for transactions on the market are prompt and secure;
- h) the risk of loss in the event of insolvency of a member of the market; and
- i) how the market investigates and deals with complaints.

3. Operating Regularly

The market must have regular trading hours during which the investments listed or admitted to dealing on that market may be dealt. Additionally, the manager will need to take into account:

- a) The availability and timing of price and volume information and the way it is distributed; and
- b) In respect of securities the degree and speed with which companies listed on the market must release price sensitive information and the medium through which that information is distributed.

4. Open to the public

Investments listed or admitted to dealing on the market must be freely available for trading by the public directly, or through members of the market, during normal trading hours. Additionally, the manager will need to take into account the extent to which overseas investors are permitted to hold securities listed on the market.

5. Ongoing Due Diligence

Managers, after consultation with the fiduciary custodian/trustee with regard to safe custody, must ensure that a market that they had deemed to be eligible remains so.

If a market ceases to be eligible then Managers must have regard to paragraph 34(1) of the Schedule to the ACIS Regs. Investments on that market will need to be limited and/or no new derivative exposures created.

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.