

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: UKLA Technical Note: UKLA/TN/410.1 Definition of 'investment manager'

Lead regulator: FCA

Date of assessment: March 2017

Commencement date: Guidance finalised November 2015

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? National

Brief outline of proposed new or amended regulatory activity

Companies listed on the Official List (and typically admitted to the London Stock Exchange's Main Market) are subject to a number of rules when joining the market, as well as continuing obligations governing conduct, disclosure rules on an ongoing basis and on an ad hoc basis when they issue further securities. The rules are set out in the FCA's Listing Rules, Prospectus Rules and Disclosure and Transparency Rules. There are additional directly applicable requirements set out in European regulations, notably the Market Abuse Regulation (MAR).

The FCA's UK Listing Authority Department (UKLA) publishes Technical Notes and Procedural Notes, which are short guidance notes intended to provide additional clarity to listed companies and their advisers as to how the FCA interprets provisions in these rulebooks. The FCA typically issues these when it has received a number of questions on the same topic, or other market feedback. The guidance provided in these notes is new guidance, which was subject to public consultation and finalised in November 2015. The objective of this new guidance is to clarify our rules and help firms to have a better understanding about application of those rules.

Technical Note 410.1, published in November 2015 in Primary Bulletin 12, provides guidance clarifying the definition of 'investment manager' under the Listing Rules' Following the implementation of the Alternative Investment Fund Managers Directive (AIFMD) in the UK in July 2013, the FCA received requests for clarification from closed-ended investment companies as to who is treated as the investment manager in the context of the AIFMD. The guidance makes it clear that both the external Alternative Investment Fund Manager (AIFM) and separate entity with delegated portfolio management responsibility fall within the definition of 'investment manager' and therefore are related parties under the Listing Rules. Technical Note 410.1 takes into account the existing market practice and serves only to provide guidance on

the application of existing Listing Rules. It does not impose any new or additional requirements on companies.

Which type of business will be affected? How many are estimated to be affected?

The guidance is only relevant to the approximately 300 closed-ended investment companies with a premium listing on the Official List.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2015	November 2015	10	-0.014	0	0

Please set out the impact to business clearly with a breakdown of costs and benefits

Note – for all cost estimates below we have assumed the guidance will be applied by experienced compliance staff at an estimated rate of £48/hour. The 2016 Robert Half salary guide estimates that a compliance manager in the risk and compliance function of a financial services company based in London earns between £70,000 and £104,000 per annum. Based on working 8 hours per day for 260 days each year our rate equates to £100,000 per annum and is therefore considered a suitably prudent figure for the purposes of our estimates.

Familiarisation cost

We expect that all of the approximately 300 closed-ended investment companies with a premium listing on the Official List would find it helpful to familiarise themselves with the two paragraph guidance note. We would expect that the note would take less than one hour to read, digest, and disseminate to any relevant members of staff, and, if necessary, update the relevant procedure to reflect the guidance. This is an estimate of the maximum amount of time it might take a company as the two paragraph note provides clarity on the application of a defined term within the existing rules in the context of the AIFMD.

At the estimated rate of £48/ hour, the total estimated cost for all 300 closed-ended investment companies would be £14,400.

Ongoing cost

We consider that this publication creates no additional costs for business because we believe that the expectations set out in it are consistent with already occurring market practice. As such, firms’ behaviour would not be impacted in a way which would result in additional costs. Although difficult to reliably quantify, on a net basis we expect the guidance, as a result of providing greater clarity in relation to who is treated as the investment manager in the context of the AIFMD, to make the application of the Listing Rules easier and quicker, producing a cost saving for businesses who maybe unclear

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

The level of detail to which individual measures are scored is set to the nearest £100k. This means that where the total cost of measures is estimated at less than £50k they are scored as zero (both as EANDCB and BIT score) for reporting purposes.

Link to Robert Half salary centre: <https://www.roberthalf.co.uk/news-insights/salary-centre-2016>