

**INVESTMENT FUNDS (SECURITIES FINANCING TRANSACTIONS)
INSTRUMENT 2016**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000 (“the Act”).

Commencement

- B. This instrument comes into force as follows:
- (1) Annex A (Glossary) and Parts 1 of Annexes B and C come into force on [date] 2016.
 - (2) The remainder of this instrument comes into force on 13 January 2017.

Amendments to the Handbook

- C. 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
Collective Investment Schemes sourcebook (COLL)	Annex B
Investment Funds sourcebook (FUND)	Annex C

Notes

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

European Union Legislation

- E. Although European Union legislation is reproduced in this instrument, only European Union legislation reproduced in the Official Journal of the European Union is deemed authentic.

Citation

- F. This instrument may be cited as the Investment Funds (Securities Financing Transactions) Instrument 2016.

By order of the Board
[date] 2016

Annex A**Amendments to the Glossary of definitions****Comes into force on [date]**

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

securities financing transactions regulation Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R2365>).

Annex B

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text.

Part 1: Comes into force on [date] 2016

4 Investor Relations

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4.2 Pre-sale notifications

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Additional information to be provided in the prospectus or other pre-sale documents on securities financing transactions and total return swaps

- 4.2.5A G (1) The *securities financing transactions regulation* sets out additional information that:
- (a) an authorised fund manager of a UCITS scheme must include in the UCITS scheme prospectus; and
 - (b) an authorised fund manager who is a full-scope UK AIFM of a non-UCITS retail scheme must make available to investors before they invest.
- (2) COLL 4.2.5BEU and COLL 4.2.5CEU copy out the relevant provisions in that regulation.
- (3) An authorised fund manager who is a full-scope UK AIFM of a non-UCITS retail scheme should publish the information in the scheme's prospectus.
- (4) An authorised fund manager of a UCITS scheme or a non-UCITS retail scheme that does not engage in securities financing transactions or total return swaps is not required to include any additional information in the prospectus or other pre-sale documents.
- (5) For these purposes, securities financing transactions and total return swaps are defined in article 3 of the *securities financing transactions regulation*.

[Note: A transitional provision applies to COLL 4.2.5AG: see COLL TP 1.38G]

4.2.5B

EU

<u>Transparency of collective investment undertakings in pre-contractual documents</u>	
1.	<u>The UCITS prospectus referred to in Article 69 of Directive 2009/65/EC, and the disclosure by AIFMs to investors referred to in Article 23(1) and (3) of Directive 2011/61/EU shall specify the SFT and total return swaps which UCITS management companies or UCITS investment companies, and AIFMs respectively, are authorised to use and include a clear statement that those transactions and instruments are used.</u>
2.	<u>The prospectus and the disclosure to investors referred to in paragraph 1 shall include the data provided for in Section B of the Annex.</u>
[Note: article 14(1) and (2) of the <i>securities financing transactions regulation</i> and article 3 for relevant definitions]	

4.2.5C

EU

<u>Information to be included in the UCITS Prospectus and AIF disclosure to investors:</u>	
–	<u>General description of the SFTs and total return swaps used by the collective investment undertaking and the rationale for their use.</u>
–	<u>Overall data to be reported for each type of SFTs and total return swaps</u>
	– <u>Types of assets that can be subject to them</u>
	– <u>Maximum proportion of AUM that can be subject to them</u>
	– <u>Expected proportion of AUM that will be subject to each of them.</u>
–	<u>Criteria used to select counterparties (including legal status, country of origin, minimum credit rating).</u>
–	<u>Acceptable collateral: description of acceptable collateral with regard to asset types, issuer, maturity, liquidity as well as the collateral diversification and correlation policies.</u>
–	<u>Collateral valuation: description of the collateral valuation methodology used and its rationale, and whether daily mark-to-market and daily variation margins are used.</u>
–	<u>Risk management: description of the risks linked to SFTs and total return swaps as well as risks linked to collateral management, such as operational, liquidity, counterparty, custody and legal risks and,</u>

	<u>where applicable, the risks arising from its reuse.</u>
–	<u>Specification of how assets subject to SFTs and total return swaps and collateral received are safe-kept (e.g. with fund custodian).</u>
–	<u>Specification of any restrictions (regulatory or self-imposed) on reuse of collateral.</u>
–	<u>Policy on sharing of return generated by SFTs and total return swaps: description of the proportions of the revenue generated by SFTs and total return swaps that is returned to the collective investment undertaking, and of the costs and fees assigned to the manager or third parties (e.g. the agent lender). The prospectus or disclosure to investors shall also indicate if these are related parties to the manager.</u>
<u>[Note: section B of the annex to the <i>securities financing transactions regulation</i> and article 3 for relevant definitions]</u>	

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8 Qualified investor schemes

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8.3 Investor relations

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Additional information to be provided on securities financing transactions and total return swaps

- 8.3.2A G (1) The *securities financing transactions regulation* sets out additional information which an *authorised fund manager* who is a *full-scope UK AIFM* of a *qualified investor scheme* must make available to investors before they invest.
- (2) *COLL 4.2.5BEU* and *COLL 4.2.5CEU* copy out the relevant provisions in that regulation.
- (3) An *authorised fund manager* who is a *full-scope UK AIFM* of a *qualified investor scheme* should publish the information in the *scheme prospectus*.
- (4) An *authorised fund manager* of a *qualified investor scheme* that does not engage in securities financing transactions or total return swaps is not required to include any additional information in pre-contractual documents.
- (5) For these purposes, securities financing transactions and total return swaps are defined in article 3 of the *securities financing transactions regulation*.

regulation.

[**Note:** A transitional provision applies to *COLL 8.3.2AG*: see *COLL TP 1.39G*]

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TP 1 Transitional Provisions

TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
...					
38	<u>COLL 4.2.5AG</u>	G	The <i>guidance</i> at <i>COLL 4.2.5AG</i> does not apply to the <i>authorised fund manager</i> :	From <u>[commencement date]</u> until 12 July 2017	<u>[commencement date]</u>
			(1) <u>of a UCITS scheme or a non-UCITS retail scheme that is an umbrella, for any sub-fund that was constituted before 12 January 2016; and</u>		
			(2) <u>any UCITS scheme or non-UCITS retail scheme that is not an umbrella and was constituted before 12 January 2016.</u>		
			[Note: article 33(2)(c) of the <i>securities financing transactions regulation</i>]		
39	<u>COLL 8.3.2AG</u>	G	The <i>guidance</i> at <i>COLL 8.3.2AG</i> does not apply to the <i>authorised fund manager</i> :	From <u>[commencement date]</u> until 12 July 2017	<u>[commencement date]</u>

		(1) <u>of a qualified investor scheme that is an umbrella, for any sub-fund that was constituted before 12 January 2016; and</u>		
		(2) <u>any qualified investor scheme that is not an umbrella and was constituted before 12 January 2016.</u>		
		[Note: <u>article 33(2)(c) of the securities financing transactions regulation</u>]		

Part 2: Comes into force on 13 January 2017

4 Investor relations

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4.5 Reports and accounts

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Additional information to be included in annual and half-yearly reports on securities financing transactions and total return swaps

- 4.5.8AB G** (1) The securities financing transactions regulation sets out additional information which:
- (a) an authorised fund manager of a UCITS scheme must include in the scheme's annual and half-yearly reports; and
 - (b) an authorised fund manager who is a full-scope UK AIFM of a non-UCITS retail scheme must include in the scheme's annual report.
- (2) COLL 4.5.8ACEU and COLL 4.5.8ADEU copy out the relevant provisions in that regulation.
- (3) An authorised fund manager of a UCITS scheme or a non-UCITS retail scheme that does not engage in securities financing transactions or total return swaps is not required to include any additional information in annual and half yearly reports.
- (4) For these purposes, securities financing transactions and total return

swaps are defined in article 3 of the *securities financing transactions regulation*.

4.5.8AC	EU	<u>Transparency of collective investment undertakings in periodical reports</u>	
		1.	<u>UCITS management companies, UCITS investment companies, and AIFMs shall inform investors on the use they make of SFTs and total return swaps in the following manner:</u>
		(a)	<u>for UCITS management companies or UCITS investment companies in the half-yearly and annual reports referred to in Article 68 of Directive 2009/65/EC;</u>
		(b)	<u>for AIFMs in the annual report referred to in Article 22 of Directive 2011/61/EU.</u>
		2.	<u>The information on SFTs and total return swaps shall include the data provided for in Section A of the Annex.</u>
<u>[Note: article 13(1) and 13(2) of the <i>securities financing transactions regulation</i> and article 3 for relevant definitions]</u>			

4.5.8AD	EU	<u>Information to be provided in the UCITS half-yearly and annual reports and the AIF's annual report</u>	
<u>Global data:</u>			
		–	<u>The amount of securities and commodities on loan as a proportion of total lendable assets defined as excluding cash and cash equivalents;</u>
		–	<u>The amount of assets engaged in each type of SFTs and total return swaps expressed as an absolute amount (in the collective investment undertaking's currency) and as a proportion of the collective investment undertaking's assets under management (AUM).</u>
<u>Concentration data:</u>			
		–	<u>Ten largest collateral issuers across all SFTs and total return swaps (break down of volumes of the collateral securities and commodities received per issuer's name);</u>
		–	<u>Top 10 counterparties of each type of SFTs and total return swaps separately (Name of counterparty and gross volume of outstanding transactions).</u>
<u>Aggregate transaction data for each type of SFTs and total return swaps separately to be broken down according to the below categories:</u>			

–	<u>Type and quality of collateral;</u>
–	<u>Maturity tenor of the collateral broken down in the following maturity buckets: less than one day, one day to one week, one week to one month, one to three months, three months to one year, above one year, open maturity;</u>
–	<u>Currency of the collateral;</u>
–	<u>Maturity tenor of the SFTs and total return swaps broken down in the following maturity buckets: less than one day, one day to one week, one week to one month, one to three months, three months to one year, above one year, open transactions;</u>
–	<u>Country in which the counterparties are established;</u>
–	<u>Settlement and clearing (e.g., tri-party, Central Counterparty, bilateral).</u>
<u>Data on reuse of collateral:</u>	
–	<u>Share of collateral received that is reused, compared to the maximum amount specified in the prospectus or in the disclosure to investors;</u>
–	<u>Cash collateral reinvestment returns to the collective investment undertaking.</u>
<u>Safekeeping of collateral received by the collective investment undertaking as part of SFTs and total return swaps:</u>	
<u>Number and names of custodians and the amount of collateral assets safe-kept by each of the custodians</u>	
<u>Safekeeping of collateral granted by the collective investment undertaking as part of SFTs and total return swaps:</u>	
<u>The proportion of collateral held in segregated accounts or in pooled accounts, or in any other accounts</u>	
<u>Data on return and cost for each type of SFTs and total return swaps</u> <u>broken down between the collective investment undertaking, the manager of the collective investment undertaking and third parties (e.g. agent lender) in absolute terms and as a percentage of overall returns generated by that type of SFTs and total return swaps</u>	
<u>[Note: section A of the annex to the <i>securities financing transactions regulation</i> and article 3 for relevant definitions]</u>	

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8.3 Investor relations

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Additional information to be included in annual reports on securities financing transactions and total return swaps

- 8.3.5AB G (1) The *securities financing transactions regulation* sets out additional information which an *authorised fund manager* who is a *full-scope UK AIFM* of a *qualified investor scheme* must include in the *scheme's* annual report.
- (2) *COLL 4.5.8ACEU* and *COLL 4.5.8ADEU* copy out the relevant provisions in that regulation.
- (3) An *authorised fund manager* of a *qualified investor scheme* that does not engage in securities financing transactions or total return swaps is not required to include any additional information in annual reports.
- (4) For these purposes, securities financing transactions and total return swaps are defined in article 3 of the *securities financing transactions regulation*.

Annex C

Amendments to the Investment Funds sourcebook (FUND)

In this Annex, underlining indicates new text.

Part 1: Comes into force on [date] 2016

3 Requirements for alternative investment fund managers

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3.2 Investor information

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Additional information to be provided in pre-contractual documents on securities financing transactions and total return swaps

- 3.2.4A G (1) The securities financing transactions regulation sets out additional information which a full-scope UK AIFM must make available to investors before they invest.
- (2) COLL 4.2.5BEU and COLL 4.2.5CEU copy out the relevant provisions in that regulation.
- (3) A full-scope UK AIFM of an AIF that does not engage in securities financing transactions or total return swaps is not required to include any additional information in pre-contractual documents.
- (4) For these purposes, securities financing transactions and total return swaps are defined in article 3 of the securities financing transactions regulation.

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TP 1 Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: date in force	Handbook provisions: coming into force
...					
<u>7</u>	<u>FUND 3.2.4AG</u>	<u>G</u>	<u>The guidance at FUND 3.2.4AG does not apply to a full-scope UK AIFM of:</u>	<u>From [commencement date] until 12 July 2017</u>	<u>[commencement date]</u>

			(1) <u>an AIF having one or more sub-funds, for any sub-fund that was constituted before 12 January 2016; and</u>		
			(2) <u>an AIF that does not have sub-funds and that was constituted before 12 January 2016.</u>		
			<u>[Note: article 33(2)(c) of the securities financing transactions regulation]</u>		

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Part 2: Comes into force on 13 January 2017

3 Requirements for alternative investment fund managers

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3.3 Annual report of an AIF

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Additional information to be included in annual reports on securities financing transactions and total return swaps

- 3.3.7B G**
- (1) The securities financing transactions regulation sets out additional information which a full-scope UK AIFM of an AIF must include in the AIF's annual report.
 - (2) COLL 4.5.8ACEU and COLL 4.5.8ADEU copy out the relevant provisions in that regulation.
 - (3) A full-scope UK AIFM of an AIF that does not engage in securities financing transactions or total return swaps is not required to include any additional information in the AIF's annual report.
 - (4) For these purposes, securities financing transactions and total return swaps are defined in article 3 of the securities financing transactions regulation.