CHARITY COMMISSION
FOR ENGLAND AND WALES

Common Investment Funds and Common Deposit Funds: a basic guide to their regulation

Contents

This guidance is not intended to relate to Charitable Authorised Investment Funds (CAIFs), which are collective investment schemes authorised by the Financial Conduct Authority and registered as charities with the Charity Commission. This guidance should not be taken as representing the Commission's policy regarding CAIFs. Further information regarding the Commission's CAIF policy will be issued separately.

Introduction

This guidance explains what Common Investment Funds (CIFs) and Common Deposit Funds (CDFs) are, how they are regulated and how they are established. CIFs and CDFs are registered charities and offer other charities of all sizes a vehicle for the investment of their funds. This guidance applies to CIFs and CDFs in which a range of charities can invest. It does not apply to pooling schemes which permit a number of charities with the same trustees to pool their funds for investment purposes, see section 1.7.

There have been substantial changes in the investment landscape since the Charity Commission's power to make schemes to establish CIFs was first introduced by section 22 of the Charities Act 1960. Authorised investment funds are afforded extensive protection by the rules and oversight of the Financial Conduct Authority (FCA) which the commission considers to be an appropriate level of protection for charity investors.

The commission has produced this updated guidance on CIFs and CDFs to reflect the changes in the regulation as a consequence of the implementation of the Alternative Investment Fund Managers Directive (AIFMD) - compliance is compulsory from 22 July 2014. This Directive gives the FCA responsibility for ensuring that managers of unregulated investment funds (which include CIFs and CDFs) comply with certain requirements of the Directive. Managers of these funds are therefore subject to the oversight and supervision of the FCA.

This guidance consists of two parts: Part 1 deals with CIFs and Part 2 deals with CDFs. In this guidance you will find:

- information on how the AIFMD affects the regulation of CIFs and CDFs
- a summary of the procedure for changing existing schemes for CIFs and CDFs
- information on the role of the commission in the establishment and regulation of CIFs and CDFs
- information on the role of the FCA
- links to the revised CIF and CDF model schemes
- links to sources of further useful information

It is important to note that the commission promotes compliance with charity law in the administration of CIFs and CDFs. It is not a financial regulator or adviser and cannot in any way guarantee the investment performance of a CIF or a CDF.

For general guidance about investing by charities and the duties of their trustees when making investments, see the guidance Charities and investment matters: a guide for trustees (CC14).

All enquiries relating to CIFs and CDFs (other than any relating to submissions of annual returns and accounts which should be submitted via the charity annual return service) should be sent to: CIF@charitycommission.gov.uk

1. Common Investment Funds (CIFs) - summary

1.1 What are CIFs?

CIFs are collective investment schemes, see section 1.6, and as such provide a way for those entitled to invest in them to diversify their investments in order to spread investment risk. They operate as investment vehicles and are treated for all purposes as charities. They are therefore eligible for registration as charities in their own right. They enjoy the same tax status as other charities.

CIFs are similar to authorised unit trusts but:

- may only make their investments available to charities
- are not authorised or directly regulated by the Financial Conduct Authority (FCA) - this means that they are 'unregulated' investments

1.2 How are CIFs created?

They are set up by schemes made by the commission or the court under section 96 of the Charities Act 2011. Existing schemes may have been created by the corresponding earlier provisions of section 22 of the Charities Act 1960 or section 24 of the Charities Act 1993 respectively (both now repealed) and therefore may contain references to these former provisions. Since 27 February 2007 they have been open to 'appropriate bodies' (ie bodies established as charitable under the law of Scotland or Northern Ireland and eligible for UK tax relief) where the terms of the individual scheme permits this.

1.3 The commission's role in establishing CIFs

In agreeing to establish CIFs under the provisions of section 96 of the Charities Act 2011, the commission's primary consideration is the interests of subscribing and potentially subscribing charities. The commission considers that the promoters/fund managers have to satisfy the commission that a proposed CIF is in the interests of those charities. The commission will have regard to the following factors in deciding whether a proposed CIF is in the interests of those charities:

- whether the proposed CIF is in the interests of the charitable sector generally
- the financial viability at creation of the proposed CIF
- the appropriateness of the proposed CIF as a charity and an investment vehicle specifically for charities

The fact that CIFs are established by the commission must not be taken as a 'kite mark' of quality. The commission makes no determination or judgment as to whether a CIF provides an acceptable level of risk or an acceptable level of performance. Investing charities must form their own view with regard to these matters.

The commission is not an investment adviser or financial regulator. It cannot offer trustees advice about the merits of a particular investment or investment strategy. It emphasises that it is not promoting CIFs as a suitable or safe investment vehicle for charities generally, nor does it suggest that CIFs are risk free. As with all investment matters, trustees should comply with their duties and obligations set out in the commission's guidance Charities and investment matters: a guide for trustees (CC14).

Using the figures supplied to the commission in the 2012 annual returns, it estimates that the charitable commercial CIFs have total net assets of just over £8 billion.

The returns show just over 13,000 charities investing their funds in CIFs.

1.4 The AIFMD and how it affects CIFs and CDFs

Compliance with the AIFMD becomes compulsory from 22 July 2014. From that date the Financial Conduct Authority (FCA) will be responsible for ensuring that managers of unregulated investment funds (which include CIFs and CDFs) comply with certain requirements of the Directive. Managers of unregulated investment funds will therefore be subject to the oversight and supervision of the FCA.

1.5 Commission schemes and what they do

CIFs and CDFs are established by schemes made by the commission. A scheme is a legal document which the commission may make to establish, amend, replace or amplify the trusts of a charity. It may set out new objects and purposes or changes to them, constitutional arrangements and powers of the charity. Some of these provisions will be mandatory, others simply enabling. It may be:

- a fully regulating scheme which deals with all aspects of a charity's purposes and administration and becomes the governing document of the charity
- a scheme which varies or affects some part of the charity's governing document

The commission's model schemes for CIFs and CDFs reflect the requirements of the AIFMD as well as the role of the commission in the regulation of the funds. Links to the model schemes are given in this guidance (section 5.2) along with guidance on how the new wording can be adopted section 2.4.

1.6 Collective investment schemes - how they work

CIFs are examples of collective investment schemes. Money contributed to the scheme by investors is pooled, and the operator of the scheme typically invests the money in a range of investments, in accordance with the published policy of the scheme.

All the money and investments in a CIF belong jointly to the contributors. The size of each share is determined by the number of 'units' each contributor owns. The number of units which each contributor owns is determined by the proportion which the value of his or her contribution bears to the total value of the assets in the scheme at the time when the contribution is made. Investment returns are allocated to unit-holders in the same proportions. The risk of particular investments falling in value is spread across all the holders of units in the fund, as they each are joint owners of all the investments in the scheme.

In technical terms, CIFs are defined by section 235 of the Financial Services and Markets Act 2000. They involve arrangements with respect to property of any description, including money, and their purpose or effect is to enable persons taking part in the arrangements to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income. The arrangements must have either or both of the following characteristics:

- the contributions of the participants, and the profits or income out of which payments are to be made to them are pooled
- the property is managed as a whole by or on behalf of the operator of the scheme

1.7 Pooling schemes

A pooling scheme made by the commission establishes a particular type of CIF whose main characteristic is that the pooling scheme and the participating charities must all have exactly the same trustees. A pooling scheme allows a body of trustees who administer more than one charity to combine funds from any or all of those charities for investment purposes. In contrast, CIFs are open to different trustees of different charities.

This guidance does not apply to this type of pooling scheme.

2. Regulation of Common Investment Funds (CIFs)

2.1 What will the commission consider before establishing a CIF?

As a starting point, the commission will look at whether the fund could be established as an authorised investment fund - it considers that it will only be expedient in the interests of charity to make such a scheme if there are compelling reasons why an authorised investment fund is not an appropriate structure. It is worth noting that, as the tax advantages of being a CIF as opposed to an authorised investment fund have been eroded significantly, the commission does not therefore consider these to be a necessarily significant factor in deciding what form an investment fund for charities should take.

If the commission does decide to create a new CIF, it will use one of the two model schemes to do so (according to which is appropriate to the circumstances of the case).

2.2 The usual features of a CIF established by the commission

The commission provides a legal framework in the form of new and amended schemes. It requires the CIF to be administered and managed by:

(a) a ‘manager’ that is a body corporate which is:

- authorised by the FCA to act as a manager of an AIF
- a full-scope UK AIFM or EEA AIFM

- independent of the board (if applicable) and the trustee

  'AIF', 'full-scope UK AIFMD' and 'full-scope EEA AIFMD' each have the respective meanings given to such terms in the Glossary to the FCA Handbook;

(b) a 'trustee' that is a body corporate which is:

(i) authorised by the FCA to act as a depositary of an AIF

(ii) independent of the board (if applicable) and the manager

(c) 'an optional board' that is a body corporate or group of individuals and each member of the board is independent of the manager and the trustee.

Being authorised by the FCA, the manager and the trustee will be subject to the regulatory oversight and monitoring by the FCA of their business practices.

The commission's approach to the regulation of CIFs is that it can only regulate them as charities so that they comply with charity law requirements. The financial regulation will be by the FCA in their regulation of the fund manager under the AIFMD implementing measures unless the issue impacts on charity law matters.

Having said this, although CIFs are 'unregulated' investments and, strictly speaking, the provisions of Collective Investment Schemes Sourcebook (COLL) (which sets out the FCA's requirements for authorised collective investment schemes) do not apply to them as stated above, the commission takes the view that the requirements of COLL provide an appropriate level of financial regulation for CIFs and therefore have reflected this along with the AIFMD requirements in the provisions of the commission's new model schemes.

2.3 How to establish a new CIF

A CIF is established by a scheme of the commission as previously described. If, despite what is said at section 2.1, a promoter (who will usually be a fund manager) still considers it appropriate and desirable to seek to establish a new CIF, before submitting a formal application they should provide the commission with information about their proposals. This will enable the commission to identify any key policy issues or other matters to which special attention may need to be given if they decide to proceed with a formal application.

If a promoter wishes to make a formal application to establish a new CIF they should contact the commission at CIF@charitycommission.gov.uk to request the appropriate form (CIF 1040) and associated information. Promoters should expect their application to take some time for formal consideration before the commission can respond. The scheme particulars, which are the detailed rules made under powers in the scheme, will need to be drafted by the fund manager and supplied to the commission as part of the application process.

The making of a scheme to establish a new CIF requires support from any two or more charities that are willing and able to invest in the new CIF with funds to provide the necessary initial seeding.

2.4 Making an existing CIF AIFMD compliant

The commission's model schemes contain all the provisions needed for compliance with AIFMD. CIFs can either:

- use the whole of the appropriate model scheme adopted in place of its existing scheme
- take individual clauses and work them into an existing scheme in place of individual existing provisions (as appropriate)

It is worth noting that whichever approach is adopted (depending on what is appropriate in the individual circumstances), the precise wording of the model schemes and their individual clauses do not have to be used and a CIF is free to fashion its own provisions which may be more or less restrictive than those proposed in the published model schemes (as long they comply with the requirements of the Directive). It may simply use the model schemes as guidance as to the kind of changes which need to be made.

If the changes required to be made to an existing CIF scheme either:

(a) relate to any of the powers exercisable by the charity trustees in the administration of the CIF

(b) the procedure to be followed in any respect in connection with its administration

the CIF and its advisers will be able to make these changes themselves by using the statutory power given under s280 Charities Act 2011. It will not be necessary to obtain the commission's consent. However, it is still necessary to notify the commission of any such changes which are made, for example change of the trustee or manager of the CIF. This should be done by sending:

- a copy of the resolution
- a clean and tracked changed versions of the amended governing document

to CIF@charitycommission.gov.uk

However, if such changes affect trustee remuneration or the objects of the CIF, the CIF and its advisers must seek the commission's prior authority, which will be given by an order if it considers the change to be expedient in the interests of the charity.

It is worth noting that the commission will only make orders which are strictly necessary and therefore the amendment of a scheme to make it AIFMD compliant may need to be effected by a combination of resolutions passed under the s280 procedure and the commission's orders, depending on the nature and extent of the changes required.

In some cases, if the changes are so extensive that effectively a wholesale replacement of the existing scheme is being made, it may be simpler to replace the entire governing scheme. In such cases, the commission needs to see a copy showing tracked changes and a clean copy of such proposed scheme (whether based on one of the commission's model schemes or an existing scheme document) so that the commission can readily identify the changes which have been made and, if appropriate, authorise them.

Example

Here the commission provides a form of wording which may be used by a CIF when resolving to make changes to its governing document using the section 280 power:

"The charity trustees of the [name of Common Investment Fund] hereby resolve under section 280 of the Charities Act 2011 to make the following amendments to the scheme of the Charity Commission dated .... (as amended by schemes dated ....). The amendments in question are marked in tracked changes on the copy of the Charity Commission scheme in the attached appendix.

Dated this .... day of .... 20...

Signed: ....

The commission has compiled a list of answers to some of the most frequently asked questions raised in relation to making existing CIFs AIFMD compliant.

Further guidance on the use of section 280 can also be found on online at part B5 of OG519. Please note that in the above circumstances you should not complete the 'online form' referred to in paragraph B5.2 of the guidance but rather notify the commission of the changes as explained in this section.

2.5 The commission's regulatory role with regard to CIFs

The commission's role with regard to CIFs can be summarised as follows:

- to ensure the administration of CIFs is properly managed in accordance with charity law and their scheme provisions and scheme particulars and to encourage good practice
- to investigate allegations of misconduct or mismanagement relating to the duties of the trustees

It cannot be overemphasised that the commission is not a financial adviser or regulator and is not responsible for the financial regulation and supervision of CIFs. As already stated the FCA has a limited role in the financial oversight and monitoring of CIFs. The disclosure of expenses, costs and commission fees etc provided in documentation such as the scheme particulars should provide sufficient transparency to enable charities as investors to be able to take a closer scrutiny of the performance of their investments themselves.

2.6 The extent of the commission's regulation of CIFs

On investment matters, the individual charity trustees, the corporate managers and the advisory committees or advisory boards of CIFs (if applicable) are responsible for:

- setting measurable performance objectives

- determining the investment policy and strategy
- determining the risks that may be associated with such policy and strategy

The manager and the trustee are regulated and subject to monitoring by the FCA. The commission does not attempt to duplicate the regulatory functions of the FCA. This means that the commission does 'not' regulate the efficacy of investment policies or ensure that the investment policies being adopted are necessarily appropriate or meet the expectations of the investing charities. It only regulates CIFs as charities with regard to their compliance with charity law.

2.7 What to consider before investing in CIFs

Trustees of investing charities must decide for themselves whether the CIFs they consider investing with are suitable or appropriate for their charities and carry an acceptable level of risk or deliver an acceptable level of performance. Detailed guidance of the duties that trustees have when investing their charities' funds can be found in the commission's guidance Investment matters: a guide for trustees (CC14).

Trustees of investing charities should also ask fund managers whether the particular CIF they are proposing to invest in is eligible under the terms of the Financial Services Compensation Scheme (FSCS). This is because the FSCS does not extend, for example, to deposits in the Isle of Man or the Channel Islands.

It is also worth noting that, even where the FSCS does apply, generally speaking it will only cover smaller charities investing in CIFs. It does not, for example, include:

- bodies corporate (which includes a company, industrial and provident society, Royal Charter body, and statutory corporation) which has two or more of the following:
    - more than £6.5 million turnover
    - more than £3.26 million balance sheet total
    - more than 50 employees; or
- unincorporated associations with assets of more than £1.4 million or
- collective investment funds (these would include CIFs themselves)

If charities want more information about the FSCS, they should contact the FSCS directly on 0800 678 1100 or 020 7741 4100.

In summary, trustees should consider each investment decision on its merits. The fact that the commission establishes CIFs does not mean they are better or appropriate investment vehicles for charities generally. Nor do CIFs carry a 'kite mark' of quality simply because they are established by the commission.

3. The Financial Conduct Authority (FCA)

3.1 What is the FCA?

The FCA is an independent body that regulates the financial services industry in the UK. The FCA regulates some 50,000 firms. These range from global fund management operations, investment banks, large UK stockbrokers and major networks of independent financial advisers, to the smallest corporate finance boutique operations and one-person financial advisers.

Persons and firms that engage in specific types of activity (called 'regulated activity') must be authorised to do so by the FCA. Establishing and/or operating a CIF, if that is done by way of business, may be a regulated activity and therefore need to be authorised by the FCA. Acting as trustee of an authorised unit trust by way of business is also a regulated activity. In practice, this will often mean that the fund manager and corporate trustee of a CIF will be engaging in regulated activity. A fund manager and/or corporate trustee that is authorised to engage in regulated activity will be monitored and supervised by the FCA.

In order to be authorised by the FCA, a person or firm must satisfy the threshold conditions set out in Schedule 6 to the Financial Services and Markets Act 2000 (as read with any threshold condition code made under section 137O (where applicable)).

Areas covered by the threshold conditions include:

(i) the legal status of the firm

(ii) the place in which the firm and/or its head office is located

(iii) the ownership of the firm and/or any relevant group structure

(iv) the firm's resources

(v) whether the firm is fit and proper (ie meets criteria as to honesty, competency and financial soundness)

But there are also possible additional specified conditions for certain persons, for example the National Private Placement Regime for non EEA AIFs, and provisions on how the threshold conditions apply to those with EEA passport rights and treaty rights.

Generally speaking, the FCA monitors and supervises regulated activity by:

- considering applications to carry on regulated activity
- considering applications by individuals to perform 'controlled functions' in an authorised firm, which will include consideration of whether those individuals are fit and proper to carry out those functions
- answering technical enquiries about whether firms require authorisation and/or individuals require approval
- seeking to ensure that only authorised firms carry out regulated activity

- collecting and maintaining intelligence information about authorised firms and individuals
- ensuring FCA authorised firms and individuals comply with the FCA's handbook of rules and guidance

The overall strategic objective of the FCA is ensuring that the relevant markets which it regulates function well and within this overall strategic context, it has the following operational objectives as set out in the Financial Services and Markets Act 2000 (as amended by the Financial Services Act 2012):

- consumer protection - ensuring an appropriate degree of protection for consumers
- integrity - protecting and enhancing the integrity of the UK financial system
- competition - promoting effective competition in the markets for regulated financial services in the interests of consumers

For further information about the Financial Conduct Authority and their work, please visit their website www.fca.org.uk

4. Accounting and reporting for Common Investment Funds (CIFs)

4.1 Annual reporting for CIFs

The commission has made the Charities (annual return) (Common Investment Funds and Charity Authorised Investment Funds) Regulations 2015. They came into force on 1st January 2016 and they apply to CIFs whose financial years end on or after that date. The Regulations can be viewed below.

- The Charities (annual return) (Common Investment Funds and Charity Authorised Investment Funds) Regulations 2015 (PDF)
- The Annual Return for Common Investment Funds and Charity Authorised Investment Funds

4.2 Accounts

CIFs are currently required to submit their accounts to the commission under the Charities (Accounts and Reports) Regulations 2008. CIFs should check the requirements as they will be amended in due course to be brought into line with new accounting standards which are expected to take effect from 1 January 2015.

5. Other useful information

5.1 List of CIFs on the Register of Charities as at 15 May 2014

	Charity No	Charity Name
1	1094498	Absolute Return Trust for Charities
2	1093529	Armed Forces Common Investment Fund
3	1116156	Charifaith Common Investment Fund
4	1039352	Chariguard Fixed Interest Fund
5	1045682	Chariguard Overseas Equity Fund
6	1039354	Chariguard UK Equity Fund
7	270540	Charinco Common Investment Fund
8	295634	Charishare Common Investment Fund
9	1062581	Charishare Restricted Common Investment Fund
10	1108291	Charities Aid Foundation UK Equitrack Fund
11	1077125	Charitrak Common Investment Fund
12	1146166	Charity Assets Trust
13	1114640	Charity Select Global Ex UK Equity Fund
14	1114641	Charity Select UK Bond Fund
15	1114643	Charity Select UK Equity Fund
16	1119289	Charity Value and Income Fund
17	1132054	COIF Charities Ethical Investment Fund
18	803610	COIF Charities Fixed Interest Fund
19	1121433	COIF Charities Global Equity Income Fund
20	218873	COIF Charities Investment Fund
21	1093084	COIF Charities Property Fund
22	1089229	Global Growth and Income Fund for Charities
23	1015446	Targeted Return Fund
24	1131752	The Affirmative Corporate Bond Fund
25	1087228	The Affirmative Equity Fund for Charities
26	1087227	The Affirmative Fixed Interest Fund for Charities
27	1025527	The Alpha Common Investment Fund for Endowments
28	1110710	The Alpha Fund for Income
29	1014756	The Bond Fund for Charities
30	271815	The Charibond Charities Fixed Interest Common Investment Fund
31	1038635	The Charities Property Fund
32	1038563	The Charity Equity Fund
33	1038561	The Charity Fixed Interest Fund

34	1119649	The Charity Multi Asset Fund
35	1059275	The Combined Charitable Capital Fund
36	1059272	The Combined Charitable Income Fund
37	1038276	The Common Fund for Growth
38	1038275	The Common Fund for Income
39	1066827	The Diversified Charity Fund
40	1094572	The Equity Income Fund for Charity
41	1065734	The Growth Trust for Charities
42	1065732	The Income Trust for Charities
43	1116505	The Multi-Strategy Property Trust for Charities
44	223887	The National Association of Almshouses Common Investment Fund
45	1014758	The UK Equity Fund for Charities

5.2 Model CIF schemes

- Model CIF schemes

Part 2

6. Common Deposit Funds (CDFs) - summary

6.1 What are CDFs?

CDFs are deposit-taking schemes. Like CIFs, they are treated for all purposes as charities and are therefore eligible for registration as charities in their own right. They enjoy the same tax status as other charities.

CDFs accept deposits from depositing charities and place the money they have accepted on deposit in the money market. The pooling of such money in the form of large sums of money (usually for relatively short duration) on deposit can secure a higher rate of interest for the depositing charities than each charity would otherwise obtain if making a deposit individually.

As with CIFs, before the Charities Act 2006, they were open only to charities in England and Wales, but are now also open to 'appropriate bodies' (ie bodies established as charitable under the law of Scotland or Northern Ireland and eligible for UK tax relief) where the individual scheme permits this. Similarly, they are set up by schemes made by the commission under section 100 of the Charities Act 2011(earlier schemes may have been created by section 25 of the Charities Act 1993 or section 22A Charities Act 1960 (both now repealed)) and therefore may contain references to these former provisions.

CDFs differ from unit trusts and CIFs in that they do not offer unitised investments. Depositing charities own the capital they have placed on deposit together with the interest earned attributable to that capital. Like CIFs, CDFs are not authorised and regulated by the

FCA. As with CIFs, the implementation of the AIFMD means that, with effect from 22 July 2014, the fund managers must comply with certain requirements of the Directive and will therefore be subject to the oversight and supervision of the FCA.

In establishing CDFs under the provisions of section 100 of the Charities Act 2011 (as was also the case under the corresponding earlier statutory provisions), the commission is able to provide a legal vehicle for depositing charitable funds.

Using the figures provided in the 2012 annual returns submitted to the commission from the 2 CDFs, their total assets under management total just over £1.35 billion.

The CDFs estimate that in excess of 21,000 charities deposit funds with them.

As with CIFs, the fact that CDFs are established by the commission must 'not' be taken as a 'kite mark' of quality and the commission makes no determination or judgment about whether a CDF provides an acceptable level of risk or an acceptable level of performance. Investing charities must form their own view with regard to these matters. For general guidance about investing by charities and the duties of their trustees when making investments, see the commission's guidance Charities and investment matters: a guide for trustees (CC14).

7. Regulation of Common Deposit Funds (CDFs)

7.1 What does the commission consider in establishing a CDF?

The commission adopts the same approach to the establishment of new CDFs as it does to the creation of new CIFs (see Part 1, section 2.3)

7.2 The usual features of a CDF established by the commission

As with CIFs, the legal framework (in the form of new and amended schemes) requires a CDF to be administered and managed by:

- a manager that is a body corporate which is authorised by the FCA to act as a manager of an AIF
- a full scope UK AIFM or EEA AIFM, and independent of the board or the trustee (whichever is applicable)
- a trustee that is a body corporate which is authorised by the FCA to act as a depositary of an AIF, and independent of the manager and (if applicable) the board

It may also have an optional board consisting of named individuals and each member of the board is independent of the manager and trustee.

Being authorised by the FCA, the manager and the trustee will, as in the case of CIFs, likewise be subject to the regulatory oversight and monitoring of their business practices by the FCA.

7.3 Establishing a new CDF

A CDF is established by a scheme of the commission as previously described which is now made under section 100 of the Charities Act 2011 (prior to that under section 25 of the Charities Act 1993 or, prior to that, section 22A of the Charities Act 1960).

If a promoter (who will usually be a fund manager) considers it appropriate and desirable to seek to establish a CDF, they should proceed in the same way as if they were seeking to establish a CIF, in other words requesting the equivalent application form (CDF-1183) and the relevant supporting forms from the commission via CIF@charitycommission.gov.uk . If the commission agrees in principle to make such a scheme, it will draft it. The scheme particulars, which are the detailed rules made under powers in the scheme, should be drafted by the fund manager and submitted as part of the application process.

As in the case of a CIF, making a scheme to establish a new CDF requires support from any two or more charities that are willing and able to invest in the new CDF with funds to provide the necessary initial seeding.

7.4 Making an existing CDF AIFMD compliant

The commission's model CDF schemes (see section 8.2) contain all the provisions needed for compliance with AIFMD.

The same approach to:

- the use of resolutions under s280 Charities Act 2011, or
- (where applicable) the need for a commission order to effect changes

applies in the same way as it does to CIFs. The example wording of a resolution given in Part 1 section 2.4 of this guidance may be adapted and used for such purposes.

7.5 The commission's regulatory role with regard to CDFs

The commission's role with regard to CDFs is the same as for CIFs (see Part 1, section 2.5):

- to ensure the administration of CDFs is properly managed in accordance with charity law and their scheme provisions and scheme particulars and to encourage good practice
- to investigate allegations of misconduct or mismanagement in relation to the duties of the trustees

7.6 The extent of the commission's regulation of CDFs

On investment matters, the individual charity trustees, the corporate managers and the advisory committees or advisory boards of CDFs (if applicable) are responsible for:

- setting measurable performance objectives
- determining the investment policy and strategy

- determining the risks that may be associated with such policy and strategy

The manager and the trustee will be regulated and subject to monitoring by the FCA. The commission does not attempt to duplicate the regulatory functions of the FCA. This means that the commission does 'not' regulate the efficacy of investment policies or ensure that the investment policies being adopted are necessarily appropriate or meet the expectations of the investing charities. It only regulates CDFs as charities with regard to their compliance with charity law.

7.7 What should charity trustees consider before depositing money in CDFs?

The investment duties for trustees thinking about depositing funds in a CDF are the same with any other investment of charity funds and are set out in the guidance Charities and investment matters: a guide for trustees (CC14).

Unlike CIFs, there is no statutory investor protection scheme available to clients of CDFs (ie the depositing charities). Whilst clients of banks are protected under the FSCS up to a maximum of £85,000, this is not available to clients of CDFs.

7.8 Accounts and annual returns

CDFs are currently required to prepare accounts which comply with the Charities (Accounts and Reports) Regulations 2008 SI No.629 and submit them to the commission. CDFs should check the requirements as they will be amended in due course to be brought into line with new accounting standards which are expected to take effect from 1 January 2015.

They are exempt from preparing an annual return under The Charities (Annual Return) Regulations 2013.

8. Other useful information for Common Deposit Funds (CDFs)

8.1 List of CDFs as at May 2014

Name	Registration number with Commission
COIF Charities Deposit Fund	1046249
The Affirmative Deposit Fund for Charities	1115887

8.2 Model CDF schemes

- Model CDF schemes

All enquiries relating to CIFs and CDFs (other than any relating to submissions of annual returns and accounts which should be submitted via the charity annual return service) should be sent to: CIF@charitycommission.gov.uk.