Chapter 19E

UCITS Remuneration Code

19E.2 Remuneration policies and practices

19E.2.1 R A *management company* must establish and apply *remuneration* policies and practices for *UCITS Remuneration Code staff* that:

(1) are consistent with and promote sound and effective risk management;

(2) do not encourage risk taking which is inconsistent with the risk profiles or the *instrument constituting the fund* or the *prospectus*, as applicable, of the *UCITS* it manages;

(3) do not impair the *management company's* compliance with its duty to act in the best interests of the *UCITS* it manages; and

(4) include fixed and variable components of *remuneration*, including salaries and discretionary pension benefits.

[**Note**: article 14a(1) and (2) of the *UCITS Directive*]

19E.2.2 R (1) *UCITS Remuneration Code staff* comprise those categories of staff whose professional activities have a material impact on the risk profiles of:

(a) the *management company*; or

(b) the *UCITS* that the *management company* manages.

(2) UCITS Remuneration Code staff must comprise:

(a) senior management;

(b) risk takers;

(c) staff engaged in control functions; and

(d) any *employees* receiving total *remuneration* that takes them into the same *remuneration* bracket as senior management and risk takers.

[**Note**: article 14a(3) of the *UCITS Directive*]

19E.2.3 G A *management company* need not treat a *person* in SYSC 19E.2.2R(2) as *UCITS Remuneration Code staff* if it can demonstrate that the *person's* professional activities do not have a material impact on the risk profiles of:

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(1) the *management company*; or

(2) the *UCITS* that the *management company* manages.

Proportionality

19E.2.4 R (1) When establishing and applying the *remuneration* policies for *UCITS Remuneration Code staff*, a *management company* must comply with the *UCITS remuneration principles* in a way and to the extent that is appropriate to:

(a) its size;

(b) internal organisation; and

(c) the nature, scope and complexity of its activities.

(2) Paragraph (1) does not apply to the requirement for significant *management companies* to have a *remuneration* committee (SYSC 19E.2.9R).

(3) The *UCITS remuneration principles* apply to:

(a) any benefit of any type paid by the *management company*;

(b) any amount paid directly by the *UCITS* itself, including performance fees, for the benefit of *UCITS Remuneration Code staff*; and

(c) any transfer of *units* or *shares* of the *UCITS* made for the benefit of *UCITS Remuneration Code staff*.

[**Note**: article 14b(1), (3) and (4) of the *UCITS Directive*]

UCITS Remuneration Principle 1: Risk management

19E.2.5 R A *management company* must ensure that its *remuneration* policy:

(1) is consistent with, and promotes sound and effective risk management; and

(2) does not encourage risk taking which is inconsistent with the risk profiles or the *instrument constituting the fund* of the *UCITS* it manages.

[**Note**: article 14b(1)(a) of the *UCITS Directive*]

UCITS Remuneration Principle 2: Supporting business strategy, objectives, values and interests, and avoiding conflicts of interests

19E.2.6 R A *management company* must ensure that its *remuneration* policy:

(1) is in line with the business strategy, objectives, values and interests of:

(a) the *management company*;

(b) the *UCITS* it manages; and

(c) the investors in such *UCITS*; and

(2) includes measures to avoid conflicts of interest.

[**Note**: article 14b(1)(b) of the *UCITS Directive*]

UCITS Remuneration Principle 3: Governance

19E.2.7 R

(1) A *management company* must ensure that its *management body in its supervisory function*:

(a) adopts and reviews at least annually the general principles of the *remuneration* policy; and

(b) is responsible for the implementation of the general principles of the *remuneration* policy.

(2) The tasks in (1) must be undertaken only by members of the *management body* who:

(a) do not perform any executive functions in the *management company* concerned; and

(b) have expertise in risk management and *remuneration*.

[**Note**: article 14b(1)(c) of the *UCITS Directive*]

19E.2.8 R

A *management company* must ensure the implementation of the *remuneration policy* is, at least annually, subject to central and independent internal review for compliance with policies and procedures for *remuneration* adopted by the *management body in its supervisory function*.

[**Note**: article 14b(1)(d) of the *UCITS Directive*]

19E.2.9 R

(1) A *management company* must establish a *remuneration* committee if it is significant in terms of:

(a) its size, or the size of the *UCITS* that it manages;

(b) [deleted]

(c) the complexity of its internal organisation; and

(d) the nature, the scope and the complexity of its activities.

(2) The *remuneration* committee must be constituted in a way that enables it to exercise competent and independent judgment on:

(a) *remuneration* policies and practices; and

(b) the incentives created for managing risk.

(3) The *remuneration* committee must be responsible for the preparation of decisions regarding *remuneration*, including those which:

(a) have implications for the risk and risk management of the *management company* or the *UCITS* concerned; and

(b) are taken by the *management body in its supervisory function*.

(4) The chairman and the members of the *remuneration* committee must be members of the *management body* who do not perform any executive function in the *management company*.

(5) When preparing its decisions, the *remuneration* committee must take into account the long-term interest of investors and other stakeholders and the public interest.

[**Note**: article 14b(4) of the *UCITS Directive*]

UCITS Remuneration Principle 4: Control functions

19E.2.10 R A *management company* must ensure that employees engaged in control functions are compensated according to the achievement of the objectives linked to their functions, independent of the performance of the business areas that are within their remit.

[**Note**: article 14b(1)(e) of the *UCITS Directive*]

19E.2.11 R A *management company* must ensure the *remuneration* of the senior officers in the risk management and compliance functions is directly overseen by:

(1) the *remuneration* committee; or

(2) if such a committee has not been established, the *management body in its supervisory function*.

[**Note**: article 14b(1)(f) of the *UCITS Directive*]

UCITS Remuneration Principle 5(a): Remuneration structures – assessment of performance

19E.2.12 R (1) A *management company* must ensure that, where *remuneration* is performance related, the total amount of *remuneration* is based on a combination of:

(a) the assessment of the performance of the individual and of the business unit or *UCITS* concerned, and of their risks; and

(b) the overall results of the *management company*.

(2) When assessing individual performance, financial and non-financial criteria must be taken into account.

[**Note**: article 14b(1)(g) of the *UCITS Directive*]

19E.2.13 R A *management company* must ensure that the assessment of performance is set in a multi-year framework appropriate to any holding period recommended to the investors of the *UCITS* managed by the *management company* to ensure that the:

(1) assessment process is based on the long-term performance of the *UCITS* and its investment risks; and

(2) actual payment of the performance-based components of *remuneration* is spread over the same period.

[**Note**: article 14b(1)(h) of the *UCITS Directive*]

UCITS Remuneration Principle 5(b): Remuneration structures – guaranteed variable remuneration

19E.2.14 R A *management company* must not award, pay or provide guaranteed variable *remuneration* unless it:

(1) is exceptional;

(2) occurs only in the context of hiring new staff; and

(3) is limited to the first year of engagement.

[**Note**: article 14b(1)(i) of the *UCITS Directive*]

UCITS Remuneration Principle 5(c): Remuneration structures – fixed and variable components of total remuneration

19E.2.15 R A *management company* must ensure that:

(1) fixed and variable components of total *remuneration* are appropriately balanced; and

(2) the fixed component represents a sufficiently high proportion of the total *remuneration* to allow the operation of a fully flexible policy on variable *remuneration* components, including the possibility to pay no variable *remuneration* component.

[**Note**: article 14b(1)(j) of the *UCITS Directive*]

UCITS Remuneration Principle 5(d): Remuneration structures – payments related to early termination

19E.2.16 R A *management company* must ensure that payments related to the early termination of a contract:

(1) reflect performance achieved over time; and

(2) are designed in a way that does not reward failure.

[**Note**: article 14b(1)(k) of the *UCITS Directive*]

19E.2.17 G

(1) Taking account of the *remuneration* principles proportionality rule in SYSC 19E.2.4R, the *FCA* does not generally consider it necessary for a *management company* to apply the *rules* referred to in (2) where, in relation to an individual ("X"), both the following conditions are satisfied:

(a) Condition 1 is that X's variable *remuneration* is no more than 33% of total *remuneration*; and

(b) Condition 2 is that X's total *remuneration* is no more than £500,000.

(2) The *rules* to which (1) applies are those relating to:

(a) retained *units*, *shares* or other instruments (SYSC 19E.2.18R);

(b) deferral (SYSC 19E.2.20R); and

(c) performance adjustment (SYSC 19E.2.22R).

UCITS Remuneration Principle 5(e): Remuneration structures – retained units, shares or other instruments

19E.2.18 R

(1) Subject to the legal structure of the *UCITS* and the *instrument constituting the fund*, a *management company* must ensure that a substantial portion, and in any event at least 50%, of any variable *remuneration* component consists of:

(a) *units* or *shares* of the *UCITS* concerned; or

(b) equivalent ownership interests in the *UCITS* concerned; or

(c) share-linked instruments relating to the *UCITS* concerned; or

(d) equivalent non-cash instruments relating to the *UCITS* concerned with incentives that are equally as effective as any of the instruments referred to in (a) to (c).

(2) However, if the management of *UCITS* accounts for less than 50% of the total portfolio managed by the *management company*, the minimum of 50% does not apply.

(3) The instruments in (1) must be subject to an appropriate retention policy designed to align incentives for the *UCITS Remuneration Code staff* with the long-term interests of:

(a) the *management company*;

(b) the *UCITS* it manages; and

(c) the investors of such *UCITS*.

(4) This *rule* applies to:

(a) the portion of the variable *remuneration* component deferred in line with SYSC 19E.2.20R(1); and

(b) the portion not deferred.

[**Note**: article 14b(1)(m) of the *UCITS Directive*]

19E.2.19 G

(1) If the management of *UCITS* accounts for less than 50% of the total portfolio managed by the *management company*, the minimum of 50% in SYSC 19E.2.18R(1) does not apply.

(2) However, in the circumstances in (1) the *management company* is still required to ensure that a substantial portion of any variable *remuneration* component consists of the instruments in SYSC 19E.2.18R(1) and appropriately reflects the extent of the management of *UCITS* by the *management company*.

(3) In the circumstances in (1), the *management company* may consider the additional use of instruments other than those in SYSC 19E.2.18R(1) that achieve the alignment of interest referred to in SYSC 19E.2.18R(3).

UCITS Remuneration Principle 5(f): Remuneration structures – deferral

19E.2.20 R

A *management company* must not award, pay or provide a variable *remuneration* component unless a substantial portion, and in any event at least 40%, of the variable *remuneration* component, is deferred over a period which is:

(a) appropriate in view of any holding period recommended to the investors of the *UCITS* concerned; and

(b) correctly aligned with the nature of the risks of the *UCITS* in question.

(2) The period referred to in (1) must be at least three years.

(3) *Remuneration* payable under (1) must vest no faster than on a pro-rata basis.

(4) For a variable *remuneration* component of a particularly high amount, at least 60% of the amount must be deferred.

[**Note**: article 14b(1)(n) of the *UCITS Directive*]

19E.2.21 G

(1) £500,000 should be considered a particularly high amount for the purpose of SYSC 19E.2.20R(4).

(2) While any variable *remuneration* component of £500,000 or more paid to *UCITS Remuneration code staff* should be subject to 60% deferral, *management companies* should also consider whether lesser amounts should be considered to be 'particularly high'.

(3) *Management companies* should take into account, for example, whether there are significant differences within *UCITS Remuneration Code staff* in the levels of variable *remuneration* paid.

UCITS Remuneration Principle 5(g): Remuneration structures – performance adjustment, etc.

19E.2.22 R

A *management company* must ensure that any variable *remuneration*, including a deferred portion, is paid or vests only if it is:

(1) sustainable according to the financial situation of the *management company* as a whole; and

(2) justified according to the performance of:

(a) the *UCITS*;

(b) the business unit; and

(c) the individual concerned.

[**Note**: first sub-paragraph of article 14b(1)(o) of the *UCITS Directive*]

19E.2.23 G

(1) The total variable *remuneration* should generally be considerably contracted where subdued or negative financial performance of the *management company* or of the *UCITS* concerned occurs.

(2) When considering (1), *management companies* should take into account both current compensation and reductions in payouts of amounts previously earned, including through malus or clawback arrangements.

[**Note**: second sub-paragraph of article 14b(1)(o) of the *UCITS Directive*]

UCITS Remuneration Principle 6: Measurement of performance

19E.2.24 R A *management company* must ensure that the measurement of performance used to calculate variable *remuneration* components, or pools of variable *remuneration* components, includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks.

[**Note**: article 14b(1)(l) of the *UCITS Directive*]

UCITS Remuneration Principle 7: Pension Policy

19E.2.25 R A *management company* must ensure that:

(1) its pension policy is in line with the business strategy, objectives, values and long-term interests of:

(a) the *management company*; and

(b) the *UCITS* it manages;

(2) when an employee leaves the *management company* before retirement, any discretionary pension benefits are held by the *management company* for a period of five years in the form of the instruments referred to in SYSC 19E.2.18R(1); and

(3) for an *employee* reaching retirement, discretionary pension benefits are:

(a) paid to the employee in the form of instruments referred to in SYSC 19E.2.18R(1); and

(b) subject to a five-year retention period.

[**Note**: article 14b(1)(p) of the *UCITS Directive*]

UCITS Remuneration Principle 8: Personal investment strategies

19E.2.26 R A *management company* must ensure that its *employees* undertake not to use any of the following to undermine the risk alignment effects embedded in their *remuneration* arrangements:

(1) personal hedging strategies; or

(2) *remuneration*-related insurance; or

(3) liability-related insurance.

[**Note**: article 14b(1)(q) of the *UCITS Directive*]

UCITS Remuneration Principle 9: Avoidance of the remuneration code

19E.2.27 R A *management company* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate the avoidance of the requirements of the *UCITS Remuneration Code*.

[**Note**: article 14b(1)(r) of the *UCITS Directive*]