

Rights, Regulation and Redress

When you buy shares in an investment trust, what you are most likely to be interested in is the performance of those shares both in share price terms and in terms of the level of dividends you receive. However, you will also want to know what your rights are as an investor in an investment trust and what you can do if things don't go according to plan.

This Factsheet explains some of your rights as an investor in an investment trust, how your investment is regulated and how to go about making a complaint, and seeking redress. It also highlights some of the steps you can take to prevent problems from occurring.

This Factsheet is intended as general guidance only. Because of the wide scope and complex nature of financial services regulation and law, it is not possible for this Factsheet to be comprehensive about all possible routes that may exist to resolve problems. If necessary, you should take advice to ensure that you understand all the options that may be open to you.

It is essential to remember that, when you buy shares in an investment trust, you are buying an equity investment. As a result, the value of your shares and the income from them can go down as well as up and you may not get back the full amount invested.

Visit our website at www.itsonline.co.uk for further information on investment trusts.

THE NATURE OF INVESTMENT TRUSTS

The first point to remember is that an investment trust is a company listed on the London Stock Exchange, just like household names such as British Airways or BP. The company therefore has to comply with both company law and **the Listing Rules** (see box opposite).

A combination of company law and the Listing Rules has two important consequences where investment trusts are concerned:

- the investment trust must have a Board of Directors which is independent of the fund managers appointed to manage the investment portfolio. The Board's duty is to ensure that the investment trust is run in the best interests of its shareholders, not the fund manager or anyone else.
- you become a shareholder in a public company, which gives you the right to attend certain meetings of the company, to express your views and to vote on important issues. Contrary to some people's beliefs, investment trusts are not all owned by large institutions and the industry has seen a big shift in ownership in recent years from institutional to private investors. Some large trusts are already well over 50% owned by private investors.

However, in addition to these forms of regulation, there are a number of other layers of regulation which may apply depending on how you choose to invest.

The Listing Rules

The Listing Rules are a set of rules which a company must comply with if it wishes to list its shares on the London Stock Exchange. The Listing Rules are made and enforced by the **Financial Services Authority** (see below) in its capacity as the UK Listing Authority (UKLA). The Listing Rules cover many areas, including the information that must be provided to potential investors the first time that the shares of an investment trust are brought to the market, as well as the company's ongoing obligations, for example to ensure the full, accurate and timely disclosure to the market of all relevant information.

The UKLA can suspend or cancel the listing of shares if normal dealing is not possible and can also impose penalties for non-compliance with the Listing Rules.

The Financial Services Authority

The Financial Services Authority (FSA) is the independent watchdog set up by the Government to regulate financial services and to protect consumers' rights.

WRAPPER PRODUCTS

Many investors choose to hold their investment trust shares in what are called “wrapper products” (e.g. Individual Savings Accounts (ISAs), pensions, Investment Trust Savings and Investment Schemes). They are called wrapper products because they are not investments in their own right but simply ways of holding investments, some of which (e.g. ISAs, pensions) come with tax privileges.

Many fund management firms offer wrapper products based on the shares of the investment trusts they manage. However, it is important to remember that an investment trust is a separate company from the management firm and it is possible for the investment trust to change its manager at any time.

All wrapper products are regulated by the FSA and there are detailed rules which govern who can offer such products, how they can promote them and how they must be run. When you contact an investment trust manager for information about a wrapper product, they will send you two very important documents:

- a Key Features Document
- the Terms and Conditions of the wrapper product.

Key Features Document

This is a document that the FSA requires investment trust managers offering wrapper products to send to potential investors which sets out important information concerning the risks of the investments which may be held in the wrapper, an indication of the effect of charges on investment performance as well as a range of other information designed to ensure that you understand the type of investment you are buying. You should read this information carefully and should compare it to the information given in the Key Features Documents produced by any other wrapper providers you may be considering investing with.

Terms and Conditions

In addition to the Key Features Document, the wrapper provider will also normally provide a statement of Terms and Conditions. Although this is often referred to as the “small print”, it sets out many important issues concerning how the provider will operate the wrapper product, some of which may not be subject to specific regulation. This document represents part of your contract with the wrapper provider and you should read it carefully, as you are unlikely to be entitled to compensation if the provider can show that it has complied with the Terms and Conditions, even if you believe that some of these conditions are unreasonable.

Example

John decides to invest a lump sum through his Investment Trust Savings and Investment Scheme on top of his regular monthly contributions believing that his money would be invested as soon as his cheque clears. He does not read any of the literature that comes with the Scheme and sends his cheque off on the 1st of the month when he thinks the share price of the investment trust is attractive.

He is angry when he discovers that the money has not been invested until the 25th when the share price is much higher. When he complains to the wrapper provider, the provider explains to him that, in the Terms and Conditions of the Scheme, it states that, in order to reduce administrative costs, all lump sum purchases are aggregated and will be invested on the 25th of the month.

John is unlikely to be entitled to compensation. Although he may think that it is wrong for the wrapper provider to wait until the end of the month before investing, the provider has set this out in the Terms and Conditions and has complied with them. If this is likely to be a problem in the future, John should consider another provider who offers to invest the money on cheque clearance (although its charges may be higher).

NOMINEE ARRANGEMENTS

If you hold your shares in a wrapper product, then you will normally hold the shares in what is known as a “nominee arrangement”. This means that your name will not be on the shareholder register (it will be that of the nominee) but you will nonetheless be entitled to all the financial benefits that may arise from holding the shares, such as dividends and a rise in the price of the shares. This is done for administrative simplicity (e.g. to avoid issuing share certificates) and can be a result of regulatory requirements.

If you hold your shares through a nominee arrangement, you have no automatic legal right to receive information such as the annual accounts, attend meetings of the company and vote your shares. Fortunately, many investment trust management groups offering wrapper products ensure that this information is passed on to you just like any other shareholder, and also make sure that you can attend meetings and vote your shares. However, you should always check whether this is the case, especially if you are investing through an ISA and the ISA provider is not the manager of the investment trust(s) in which you want to invest where you may be charged for these facilities if they are available at all.

INVESTMENT MANAGERS

Most investment trusts are managed by external fund managers. These fund managers must be “authorised” by the FSA before they are permitted to conduct investment business. Anybody offering wrapper products must similarly be authorised. To be authorised by the FSA, a business must show to the FSA’s satisfaction that they are financially sound, employ fit and proper people and conduct their business properly. External fund managers and operators of wrapper products will not generally give investment advice.

INDEPENDENT FINANCIAL ADVISERS

You may choose to seek financial advice before buying investment trust shares. No-one can give investment advice unless they are authorised to do so. Financial advisers, including Independent Financial Advisers, are regulated by the FSA and are required to achieve certain minimum qualifications before they can give advice. The AITC does not give investment advice to members of the public about specific investment trusts.

COMPLAINTS AND COMPENSATION

If you have a complaint, it is very important to identify first the nature of your complaint and whom you have the complaint against.

1. Complaints about the investment trust

If your complaint is about the running of the investment trust, or its performance, you should address your complaint to the company through the Chairman. This can be done at the Annual General Meeting (AGM), or at other general meetings of the company, or you can write to the Chairman directly.

Another more formal approach would be to table a resolution(s) at the AGM or to convene an Extraordinary General Meeting (EGM) of the company to discuss the matter concerned and vote on any resolutions brought before the meeting. For this you are likely to require the support of other shareholders.

To table a resolution at an AGM, you generally require the support of owners of at least 5% of the company's share capital or 100 shareholders holding at least £100 of share capital each. An EGM can be convened by shareholders holding 10% of the company's share capital. Anyone can inspect, or obtain a copy of, the shareholder register of the company (although a fee may be payable). Remember also that, as a shareholder, you have the right to vote on such resolutions and you should always take up this opportunity.

2. Complaints about wrapper products or financial advisers

If your complaint is about a wrapper product, or about advice given by a financial adviser, you should complain first to the wrapper provider or financial adviser as appropriate to give the provider or adviser a chance to investigate the complaint.

Although you can do this over the phone (in which case you should keep a record of when you phoned, what was said and whom you spoke to), it is usually best to make your complaint in writing so that you have a formal record so there can be no disagreement at a later date over what was said. Make this information as complete and clear as possible. Most providers and advisers want to settle valid complaints quickly and giving them the information to enable them to do so will help resolve the matter as soon as possible.

If you are not happy with the responses given by the wrapper provider or adviser, you may be able to take your complaint to the Financial Ombudsman Service (see opposite).

Example

Sarah takes out an ISA with XYZ Ltd, a self-select ISA provider, and decides to invest £7,000 in ABC Investment Trust plc. In the Terms and Conditions of the ISA, it states that XYZ Ltd will invest all monies within 5 working days of a valid cheque being received. She posts her cheque first class on 14 March. However, when her statement of account arrives, it appears that the shares were bought on 27 March. During this period, the price of ABC Investment Trust plc's shares has risen sharply.

Sarah may have a valid cause for complaint for which she may be entitled to some form of compensation. However, her complaint is not against ABC Investment Trust plc, but against the company providing the ISA wrapper and she should contact XYZ Ltd, not ABC Investment Trust plc, to ask them to investigate.

Investment performance

Poor investment performance is perhaps the most common reason for complaints. However, as mentioned earlier, investment trusts are equity investments and therefore you must understand that the value of your investment can go down as well as up. It is unlikely that poor investment performance, of itself, will entitle you to compensation unless you can show that the advice or literature received in connection with your investment was misleading about the prospects for the performance of your investment.

This does not mean, of course, that you cannot complain about the performance of your investment and seek explanations. It is worth reading the annual accounts and attending the AGM, as these will provide further information on the performance of the company. If you are still not satisfied, you could ask questions of the Chairman or the manager at the AGM or write to the Chairman at any time raising your particular points of concern. If you took advice before investing, you should discuss the matter with your financial adviser.

Legal action through the courts

Ultimately, if you consider that you have a cause for complaint that could entitle you to some form of compensation, you may be able to take your case to court. However, legal action of this nature can be time-consuming and expensive and you may require the support of other shareholders to make this a viable option. You should certainly consider taking legal advice before embarking on legal action.

The Financial Ombudsman Service

The Financial Ombudsman Service (FOS) is an independent complaints scheme that can look into complaints about many financial services products (including wrapper products) and financial advisers. If the complaints are justified, the FOS can order the wrapper provider or adviser to put things right (including paying compensation of up to £100,000). The FOS is free to consumers and should be quicker and less formal than settling complaints through the courts.

You should bear in mind, however, that the FOS will not normally consider complaints about poor investment performance of itself and cannot hear complaints which relate specifically to the running of the investment trust.

It can, however, hear complaints about advice received leading to a purchase of investment trust shares or about wrapper products in which investment trust shares may be held. If your complaint is about advice received or about a wrapper product, you should make this very clear to the FOS and that you are not complaining specifically about the running of the investment trust itself.

You can find out more in the FOS's leaflet "Your complaint and the ombudsman".

You can contact the FOS at:

The Financial Ombudsman Service
South Quay Plaza, 183 Marsh Wall, London E14 9SR

Tel: 0845 080 1800

Email: enquiries@financial-ombudsman.org.uk

Website: www.financial-ombudsman.org.uk

Other information

The "FSA's Guide to making a complaint" provides useful information and guidance on how to make a complaint and contains additional information on the FSCS and the FOS. Copies of this document can be obtained by phoning the FSA Consumer Helpline on 0845 606 1234 (calls charged at local rate) or from the FSA Consumer website at www.fsa.gov.uk/consumer.

FINANCIAL SERVICES COMPENSATION SCHEME

Investors are naturally concerned about what would happen if the firm providing the wrapper product goes out of business. As the firm providing the wrapper product has to be authorised by the FSA, this should be a rare event.

In addition, if you buy shares in an investment trust through a wrapper product, the shares will have been kept separate from the other business assets of the provider. Therefore, even if the provider goes bust, creditors will not be able to demand that your investments are sold to pay them money owed to them by the provider.

If, in spite of these measures, the wrapper provider goes out of business and you lose money as a result, you may be entitled to compensation under the Financial Services Compensation Scheme (FSCS).

The maximum compensation payable under the terms of the FSCS is 100% of the first £30,000 of your investment and 90% of the next £20,000, subject to an overall maximum of £48,000.

You can contact the FSCS at:

Financial Services Compensation Scheme
7th Floor, Lloyds Chambers
1 Portsoken Street, London E1 8BN

Tel: 020 7892 7300

Email: enquiries@fscs.org.uk

website: www.fscs.org.uk

OTHER INFORMATION AVAILABLE FROM THE AITC

For further information...

Visit our website

Our website is a good place to start if you want to learn more about investment trusts and how they can help you get the most from your savings. You can find us at www.itsonline.co.uk

Contact an Independent Financial Adviser

If you would like any further information or advice, you should contact an Independent Financial Adviser (IFA). You can get the details of three IFAs in your area by calling 0800 707 707.

Look out for this symbol



Investment trusts regularly advertise in the national and financial press - just keep your eyes open for the symbol above.

Information factsheets

The AITC publishes a range of factsheets which are available free of charge by calling 0800 707 707.

- its for investment trusts
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Please note that investment trusts are intended as long-term investments. Because an investment in an investment trust may go down in value as well as up, you may not get back the full amount invested.

This type of investment is not suitable for everyone and if you have any doubt whether it is suitable for you, you should obtain expert advice. Past performance is not necessarily a guide to the future.

The statements contained in this guide are based on our current understanding of law and practice. This can change over time and investors who are unsure as to their status should obtain independent advice from their professional adviser.