

Fund Registration Briefing

UK Briefing – FCA Update on Overseas Fund Regime

August 2024

The FCA published further details of the operation of the Overseas Fund Regime (“OFR”) in an update to its website on 12 August 2024. The update follows the publication of the [Policy Statement on the OFR](#) in late July.

The update includes a link to the “How-to” guide, which sets out instructions on how UCITS Management Companies (or “Operators”) may register for the FCA Connect system in preparation to make application for recognition of EEA UCITS Schemes for which they are responsible.

It is clear from the FCA update that Management Companies will be exclusively responsible for all filings and correspondence with the FCA in relation to the OFR.

UCITS in the TMPR

Applications for recognition of UCITS currently in the Temporary Marketing Permissions Regime (“TMPR”) must be made directly by the Management Company within an allocated landing slot for that Management Company. Landing slots are allocated alphabetically by Management Company name. Details of all landing slots is available at the above link.

Recognition of newly authorised sub-funds under the TMPR - Currently, Operators of umbrella EEA UCITS in the TMPR can add a sub-fund of that umbrella to the TMPR if the sub-fund has been authorised post-Brexit. The FCA now clarifies that the latest point at which a UCITS will be able to continue to add sub-funds in this way is 2 weeks before the opening of the landing slot

for the UCITS Management Company. If a UCITS wishes to add new sub-funds after that point, it will need to wait until the umbrella has been recognised in the UK under the OFR.

Recognition of sub-funds authorised pre-Brexit - Currently, Operators of umbrella EEA UCITS in the TMPR cannot add a sub-fund of that umbrella to the TMPR if the sub-fund was authorised before the UK withdrew from the EU. The FCA update clarifies that before a Management Company can apply for recognition of a pre-Brexit authorised sub-fund, it will firstly need to complete the application for recognition under the OFR for the UCITS umbrella and sub-funds registered within the TMPR. Once that recognition has been granted, recognition of additional non-TMPR sub-funds under the OFR can then be applied for.

Change of Management Company - Following the notification of a landing slot to a Management Company (usually 8 weeks prior to the opening of the landing slot for that Management Company) and until recognition has been confirmed, the FCA cannot take account of any change of Management Company for an EEA UCITS within the TMPR. The FCA advises that UCITS wishing to change Management Company after notification of the current Management Company’s landing slot should wait until the scheme is recognised in the UK under the OFR.

New UCITS applicants

New UCITS applicants which are not

in the TMPR may apply for recognition through their Management Company under the OFR from 2 September 2024.

Recognition Decisions

The FCA will consider applications for recognition and will confirm their decision to the relevant Management Company within 2 months of receiving the application.

Data Requirements and Application Forms

The FCA “How-to” guide, available [here](#), advises that application forms will be available to Management Companies on the FCA Connect portal once the Management Company has registered as an “Overseas Operator”. While these are not yet available outside this registration process, details of the data sets are disclosed in the FCA Policy Statement published in July 2024 and are summarised in our recent briefings, [FCA Publishes Policy Statement and Final Rules for Overseas Fund Regime](#) and [Timeframe and Roadmap for the Overseas Fund Regime Published](#).

These data sets are extensive and will require considerable time to compile, as certain information must be provided at class level. This issue is particularly relevant for Management Companies with earlier alphabetical landing slots which will have less time to collate such data across all of their TMPR UCITS.

If you have any questions please contact any member of the fund registrations team at: fundregistrations@dilloneustace.ie or your usual Dillon Eustace contact.

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