

Fund Registration Briefing

FCA Publishes Policy Statement and Final Rules for Overseas Fund Regime

July 2024

The FCA issued its Policy Statement PS24/7 “Implementing the Overseas Fund Regime – Feedback to CP23/26 and final rules” on 17th July 2024. This follows the publication of details of the landing slots for operators of funds in the Temporary Marketing Permissions Regime (“TMPR”) on 5th July 2024. These updates provide further clarity on how and when overseas UCITS will transition from the TMPR into the Overseas Funds Regime (“OFR”) and the requirements which will apply for applications for recognition under the OFR and on an ongoing basis.

Landing Slots

Applications for recognition under the OFR will be the responsibility of the UCITS Management Company (“Fund Operator”). Landing slots have been allocated alphabetically by Fund Operator name, with each landing slot providing a window of 3 months for the Fund Operator to complete all applications for its TMPR funds.

The FCA will issue a ‘direction’ to each Fund Operator in the TMPR, 8 weeks prior to the Fund Operator’s landing slot opening, instructing the Fund Operator how to apply. These directions will be sent by email to the Chief Compliance Officer

(the details of which have been provided to the FCA).

Details of the landing slots are set out in [Appendix I](#).

It should be noted that the FCA warns that once it has issued a landing slot direction, and until an application for recognition has been determined, the FCA cannot take account of any change of Fund Operator (Management Company) for the EEA UCITS within the TMPR. Therefore, UCITS wishing to change Management Company should wait until the scheme is recognised in the UK under OFR.

Application for Recognition under the OFR

Data to be provided

A significant amount of data must be provided to the FCA as part of the OFR recognition application and Fund Operators and UCITS promoters are advised to consider how they will collate this data in advance of the relevant landing slot. Much of the data is required at class level and significantly more information is required than was previously the case.

While the FCA acknowledged suggestions from respondents to its Consultation Paper that proposed data requirements were excessive, it still considers the proposed dataset to be proportionate.

It proposes to publish a “how to” guide providing further guidance on information expected as part of the application. Details of the published data requirements are set out in Appendix II.

ETFs will be subject to the same data requirements. The “OFR how to guide” will provide additional clarity on how the data form should be completed for an ETF.

Additional Disclosures in Prospectus/UK Country Supplement

The FCA has determined that disclosures relating to the availability of the UK Financial Ombudsman Service and Financial Services Compensation Scheme to investors in overseas UCITS may be included in a UK Country Supplement rather than updating the UCITS Prospectus. The FCA have also acknowledged that it may be relevant to include information on the UCITS home redress arrangements.

Details of these disclosure obligations are set out in the FCA Handbook [COLL 9.5 OFR recognised schemes - FCA Handbook](#)

Fund Names

The Policy Statement considers the position where a recognised fund has an identical name as a UK authorised fund. It clarifies that provided that the overseas fund meets all other application

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requirements, the application will not be rejected on the basis of it having an identical name as a UK authorized fund.

The FCA expects the overseas fund to confirm it has taken reasonable steps to ensure that the UK distribution channels will make the funds domicile sufficiently clear.

Fees

The application fee for a UCITS umbrella has been increased to £5,440. The fee will be payable up front as part of the OFR recognition application.

Fees under the OFR will be aligned with fees for UK authorized funds.

Investor Facilities

Fund documentation and investor facilities may be provided electronically replacing the previous obligation to have a UK domiciled Facilities Agent.

Ongoing Obligations in the OFR

Notification of Changes

The FCA had previously suggested in its OFR Consultation Paper that it would expect OFR recognised UCITS to provide 30 days prior notice prior to implementing certain changes in the UK. It has acknowledged in the Policy Statement that this is not operationally feasible and recognises that such changes would already have been approved by a UCITS

home National Competent Authority ("NCA").

The FCA proposes -

- where a change needs to be approved by the home NCA, the Fund Operator should notify the FCA as soon as reasonably practicable after that approval has been obtained from the home NCA.
- in other cases, the Fund Operator should notify the FCA as soon as reasonably practicable after the decision to make the change has been reached or the event has occurred.

In each case the notification to the FCA should, if possible, happen before the change takes effect in the UK.

In particular, in the event that funds or sub-funds are to be terminated, the FCA encourages Fund Operators to provide adequate notice once this event is known, so the FCA can address any potential implications for UK investors.

Appendix III sets out guidance provided by the FCA on how and when changes must be notified.

Approval of Financial Promotions used in the UK

Since February 2024, the approval of financial promotions is a regulated activity for which a UK firm must hold a specific permission from the FCA, unless an exemption applies. Fund Operators

must arrange for a UK authorised person to approve all financial promotions for issue in the UK. This differs from the rights previously given to operators of recognised schemes under the UCITS passport when the UK was a member of the EU.

Fund Operators wishing to promote OFR funds must make arrangements with a suitably authorized UK approver which must be identified in the OFR application.

Refusal of recognition, suspension, revocation and public censure

The Policy Statement indicates that the FCA will finalise rules which would protect UK investors interests and acknowledges that the FCA expects revocations and suspensions of marketing to be rare, The Policy Statement also indicates that the FCA will consider the risk of consumer harm when reviewing an OFR application or changes to the operation or marketing of an OFR recognised firm.

Details of the operational update may be viewed on the FCA website [Overseas Funds Regime: Update for firms | FCA](#) and the FCA Handbook [COLL 9.5 OFR recognised schemes - FCA Handbook](#).

If you have any questions please contact any member of the fund registrations team at:

fundregistrations@dilloneustace.ie
or your usual Dillon Eustace contact.

Appendix I

OFR Landing slots

3-month rolling landing slot for firms to apply	Operator name buckets	Suggested action to be taken
Landing slot	2 September 2024	OFR opening for new scheme applications
1	1 October 2024 - 31 December 2024	Stand-alone schemes
2	1 November 2024 - 31 January 2025	A
3	1 January 2025 - 31 March 2025	B
4	1 March 2025 - 31 May 2025	C
5	1 April 2025 - 30 June 2025	D and E
6	1 May 2025 - 31 July 2025	F
7	1 June 2025 - 31 August 2025	G
8	1 July 2025 - 30 September 2025	H
9	1 August 2025 - 31 October 2025	I
10	1 September 2025 - 30 November 2025	J and K
11	1 October 2025 - 31 December 2025	L
12	1 November 2025 - 31 January 2026	M
13	1 December 2025 - 28 February 2026	N
14	1 January 2026 - 31 March 2026	O and P
15	1 February 2026 - 30 April 2026	Q and R
16	1 March 2026 - 31 May 2026	S
17	1 April 2026 - 30 June 2026	T
18	1 May 2026 - 31 July 2026	U
19	1 June 2026 - 31 August 2026	V
20	1 July 2026 - 30 September 2026	W - Z and firm with digit in title

For umbrella schemes with sub-funds currently in the TMPR, if for example your fund operator name begins with A, you will be directed to make your application in landing slot 2, whereas if your fund operator name begins with K you will be allocated landing slot 10. All stand-alone schemes in TMPR that apply for recognition under the OFR must make their application in landing slot 1.

You will be able to submit your application(s) at any time during your 3-month landing slot. Following the commencement of planned forthcoming Government legislation, if you fail to submit the application, or fail to notify us that no application will be made during your landing slot, the applicable fund(s) will lose their recognition under the TMPR immediately after the end of their landing slot. This will result in the fund no longer being considered as a recognised scheme in the UK.

The fund can no longer be promoted to UK retail investors until it has made a successful application for recognition under the OFR, and the operator and UK distributors will need to take steps to comply with the financial promotions restrictions. Loss of recognition may also have personal taxation consequences for UK investors.

You will be expected to apply within your allocated landing slot.

Appendix II

Data Requirements for OFR Recognition Application

Information	Action required
Contact information	Check current contact information is up-to-date and amend if it is not
Fund population	Check on FCA Register and email recognisedcis@fca.org.uk if any changes are needed

Information	Action required
Information identifying the scheme	Name, including sub-fund names
	PRN
	LEI, including sub-fund LEIs
	Domicile
	Structure and fund type
	Name and address of scheme operator
Fund population Information on the scheme's profile	Investment objective, policy & strategy
	Value of AUM in £ sterling
	Fund category and main categories of asset class
	Information on use of derivatives
	Use of benchmarks, and whether actively/passively managed
	Availability of liquidity management tools (including whether there has been any
	Dealing frequency
	Target investors
	Minimum investment amount
	Any particular ESG focus
Fees and charges at scheme and share class level	Initial and exit/redemption charges payable to scheme operator/its associate
	Ongoing charges figure
	Performance fees
	Any other relevant fee or charge
	Amount of annual management charge retained by the management company
Characteristics of unit/share classes	Name/designation
	ISIN
Parties connected to the scheme	Management company
	Depositary
	Delegated portfolio manager, and any sub-delegates appointed
	UK representatives
	Authorised person approving financial promotions on behalf of the scheme
	Any sponsor or other person influencing the scheme's design or management

Appendix III

Changes to funds and other events that operators of OFR funds must notify to the FCA

When is the notification required?

1. For a change that must be approved by the home-state regulator of the fund or its operator, a notification should be sent to the FCA as soon as reasonably practicable after the approval has been given.
2. For any other change or event, a notification should be sent to the FCA as soon as reasonably practicable.
3. In each case, the notification to the FCA should include the date at which any change takes effect.

How should the notification be made?

The lists below indicate which notifications should be made using the FCA Connect system and which should be made by sending an email. There will be a separate Connect form for notifying a termination of a scheme or sub-fund in its home jurisdiction.

Type of change / event to be notified via FCA Connect

- Fund's name
- Fund's legal structure
- LEIs and unique indicators at fund level
- Fundamental change to a fund's investment objective, policy or strategy
- For example, a change of the predominant investment from equities to bonds
- Any change to a benchmark against which fund performance is tracked or compared
- Matters that would be likely to cause a significant negative effect on UK investors at fund or class level
- Fund's target UK investors – whether retail, institutional or both – at fund or class level
- Material change to fund's minimum investment applicable to UK investors at class level. Specifically, if the minimum investment will equal or exceed £50,000
- Replacement of the fund operator
- Appointment or replacement of connected parties: depositary, delegated investment manager, fund sponsor, UK representative of the operator or the UK financial promotions approver
- Change of name of the fund operator or any connected party
- Change of address of the fund operator, depositary, the UK representative of the operator or the place in the UK for services of notices
- A request to de-recognise the stand-alone scheme / umbrella / sub-fund when it will remain in existence, but the operator no longer wishes it to be marketed in the UK
- Termination of a stand-alone scheme / umbrella / sub-fund in its home jurisdiction

Type of change / event to be notified via email

- The fund operator becomes aware that it has contravened or expects to contravene any requirement imposed on it by the UK Financial Services and Markets Act 2000.
- Supervisory sanctions imposed on the operator / fund itself by the home state regulator(s), once in the public domain. Any restrictions on their activities that have been voluntarily agreed by them.
- Suspension of dealing in fund's units / shares.