

Legal Update

The UK's New Overseas Fund Regime

The new Overseas Funds Regime ("OFR") of the UK which will permit non-UK funds, including those targeting retail investors, to register as "recognised funds" that will allow them to be promoted in the UK will start to go live at the end of this month. The primary beneficiaries of this scheme are expected to be UCITS authorised in the EU, including Ireland. The new regime will be open to both new UCITS and existing schemes which are currently operating under the Temporary Marketing Permissions Regime ("TMPR").

Background

Following Brexit, the sale of European Union ("EU") authorised funds, including those authorised as UCITS in Ireland and Luxembourg, into the UK was subject to some uncertainty as the passporting powers provided for under EU law no longer applied. To address this and avoid major market upheaval the TMPR was provided for as a temporary measure until a lasting solution was agreed. The OFR represents this solution and UCITS (except money market funds) will be able to regularise their sales in the UK going forward by obtaining recognition under this regime.

New Funds

For new funds (those not under the TMPR) applications will be accepted for recognition from 30th September 2024. Applications should be made by the management company to the fund and, following the submission of the application form and related fee, the UK's Financial Conduct Authority ("FCA") intends to issue a response within two months.

Funds operating under TMPR

As there is currently a large number of funds using the TMPR, a structured process is to be used to transition those funds to the new regime. Landing slots will be allocated to these existing funds, and they will be contacted by the FCA (by email to their Chief Compliance Officer as notified to the FCA) 8 weeks prior to each fund's landing slot opening, informing the fund operator how to apply.

Operational and Transitional Issues

The FCA has set out further details of operational considerations relating to the transition to the OFR in its guidance. Aspects of this are of particular note for funds in the TMPR as, for example, changes of management company will not be recognised once the landing slot has been allocated and similarly new sub-funds will only be permitted to be added up to two weeks before the relevant landing slot of the scheme.

How Clerkin Lynch Can Help

Clerkin Lynch's regulatory team can assist with preparations for registration under the new OFR. Contact us for more information.



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