

Update on the UK's Implementation of the Overseas Funds Regime for UCITS

Following our recent update¹, the FCA and Treasury issued a joint roadmap² on 1 May 2024, setting out the expected timeline for the implementation of the Overseas Funds Regime ("OFR") which will go live later this year.

Background

The OFR will allow certain investment funds established outside the UK to be promoted to retail investors in the UK.

Funds 'recognised' under the OFR can be promoted in the UK in the same way as funds established in the UK.

The categories of funds that will be able to use the OFR are specified in legislation following an equivalence determination by the UK Government. On 30 January 2024, HM Treasury confirmed the granting of an equivalence decision for EEA member states.

As a result, the OFR will be available to most funds authorised under the UCITS Directive and established in EEA and EU member states. For the time being this excludes EEA UCITS that have been authorised as money-market funds ("MMFs").

However, while the TMPR remains in place, MMFs that are recognised under it can continue to be promoted. The UK Government is developing a regime for overseas MMFs and consulted on this in December 2023.

The OFR will be available to new EEA UCITS that have not previously marketed to UK retail investors, as well as EEA UCITS that are currently operating under the Temporary Marketing Permissions Regime.

Key Milestones

The following are the key milestones that will affect funds to be recognised under the OFR:

July 2024	The FCA is expected to issue its final rulebook and guidance on the application process for the OFR.
September 2024	The OFR is expected to open to new EEA UCITS, i.e. those not already in the TMPR. New EEA UCITS will be able to apply at any time from that date without a landing slot.
October 2024	The OFR is expected to open to standalone EEA UCITS currently in the TMPR from October.
November 2024	The FCA will issue a series of 20 landing slots to fund operators* of umbrella EEA UCITS by alphabetical order of the fund operator's name.
H2 2025	If the UK Government decides to extend the SDR to apply to OFR funds, any legislative requirements are likely to come into force in the second half of 2025.

¹ <https://maples.com/en/knowledge-centre/2023/12/uk-update-fund-operators-need-to-prepare-for-new-uk-overseas-funds-regime>

² <https://www.fca.org.uk/publication/corporate/roadmap-to-implementing-overseas-funds-regime.pdf>

September 2026	The final landing slot for non-MMF funds will close.
December 2026	The TMPR will close for non-MMF funds.
January 2027	It is expected that OFR funds will be required to follow FCA rules under the new UK retail disclosure framework for Consumer Composite Investments ("CCIs") from 1 January 2027 at the latest.

**Either the management company of an EEA UCITS, or a self-managed investment company, as applicable.*

Landing Slots

Landing Slot	Date	Fund Operator Name Buckets
Landing slot	2 September 2024	OFR opening for new scheme applications
1	1 October 2024 - 31 December 2024	Standalone 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

The FCA is not expected to issue its final rulebook and guidance on the application process until July 2024. This will leave fund operators with the earlier landing slots a very short window to gather any necessary data and information required prior to making the application.

Upcoming Developments Affecting the OFR

UK Sustainability Disclosure Requirements & Labelling

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Funds recognised under the OFR do not currently fall within the Sustainability Disclosure Requirements ("SDR"). The UK Government is expected to consult on whether the SDR should be extended to apply to OFR funds in Q3 2024. If a decision is made to extend the SDR to OFR funds it is expected that any legislation would come into force in the second half of 2025. The FCA would separately consult on necessary changes to their rulebook.

Data Collection on OFR Funds

The FCA will need to collect information from funds within the OFR to ensure that it can oversee the functioning of OFR funds. These rules will not apply immediately as the FCA intends to undertake a wider review of ongoing data reporting for funds in due course. It will consider the ongoing reporting requirements for OFR funds as part of that review.

Retail Disclosures

The UK Government and the FCA are creating a new framework for disclosure requirements for retail-facing financial services products. Under this framework, the FCA will prepare and consult on a new retail disclosure regime for CCIs which will replace all existing requirements.

OFR funds can continue to provide the UCITS KIID until 31 December 2026 but will be required to follow FCA rules under the new UK retail disclosure framework from 1 January 2027 at the latest.

OFR Application Process

Applications under the OFR are to be made via the FCAs **Connect** system³. Each fund operator will need to register a user on the system to complete an enrolment form on behalf of the fund operator.

Each fund operator will be issued a three-month landing slot. The application can be made at any point during the landing slot. It is important to note that EEA UCITS which miss their allocated landing slots will be removed from the TMPR and cannot be marketed in the UK until a successful application under the OFR has been made and the EEA UCITS becomes recognised again.

Application fees of £2,500 per standalone fund or £5,000 per umbrella will apply.

Fund operators will need to complete an application form for each EEA UCITS. There will be three application forms to choose from:

- 1) Application to recognise a standalone collective investment scheme under s271A FSMA.
- 2) Application to recognise an umbrella collective investment scheme under s271A FSMA.
- 3) Application to add a new sub-fund(s) to an umbrella collective investment scheme already recognised under s271A FSMA.

It is expected that the following information on the EEA UCITS will be required as part of the application process:

- a) identifying information, i.e. name, LEI, domicile, fund structure and type and confirmation that the fund has been authorised in its home jurisdiction;
- b) profile information, i.e. investment objective, policy and strategy, value of AUM, fund category and main asset classes, use of derivatives, use of benchmarks, liquidity management tools, dealing frequency, target investors and ESG factors;
- c) fee details, i.e. initial and exit charges, ongoing charges, performance fees and any other relevant fees;
- d) share class characteristics;
- e) information on key parties, i.e. ManCo, depositary, portfolio manager, UK representatives, authorised persons who will approve the fund's financial promotions and sponsor; and

³ https://connect.fca.org.uk/firms/aupo_sitelogin

- f) marketing and distribution information, i.e. UK financial promotion approver and details of any promotional payments.

The FCA will review applications to ensure the required information is complete and they may contact you if they require further information. The FCA will issue its decision by email within two months of receiving a complete application.

Marketing of the EEA UCITS can commence as soon as confirmation of recognition has been received from the FCA.

On-Going Obligations

Once recognised, EEA UCITS will be required to notify the FCA on an on-going basis of certain material changes. To assess the impact of those changes, the FCA will require 30 days prior notice of the following:

- a) Change of name;
- b) Change of legal structure;
- c) Ceasing of marketing in the UK;
- d) Sanctions on the Fund or Operator;
- e) Suspension of dealing;
- f) Fundamental change to the fund's investment objective, policy or strategy;
- g) Matters that would cause a significant negative effect on UK investors;
- h) Change to target investors in the UK; and
- i) Material change to funds minimum investment amount.

For other changes, notification will be required within 30 days of the change taking place. Further notifications, as set out in section 2711 of FSMA, must also be notified to the FCA. These notifications should be made as soon

as reasonably practicable and include the following:

- a) Change to the operator, trustee or depositary of the fund;
- b) Change to the name or address of the above entities;
- c) Change to the address of the place in the United Kingdom for service of notices, or other documents, required or authorised to be served on the operator; and
- d) If the operator becomes aware that it has contravened or expects to contravene a requirement imposed on it under FSMA.

It should also be noted that operators will be required to provide a confirmation on an annual basis that all information on the FCA system is up to date.

It is expected that a periodic fee will be charged by the FCA and that fees for OFR-recognised funds will be in line with those charged to UK-authorized funds.

Check Your Existing Records

In anticipation of the implementation of the OFR fund operators should check that the details held by the FCA are correct and up to date. You can prepare by:

- (a) Reviewing your firm's record on the FCA Register.
- (b) Ensure the contact details are correct. The FCA may email you in relation to landing slots at the address included on the register. It is important that this is correct.
- (c) Review the list of funds on the register to ensure that the funds included on the FCAs TMRP register match your records.

How the Maples Group Can Help

The Maples Group GRS supports UCITS⁴ and AIFMs² in their multi-market distribution strategies by providing an integrated global network of experts coordinated by a dedicated central team supporting all legal and regulatory aspects governing the cross-border marketing of investment funds on both a private placement and public offer basis.

Further Information

If you would like further information, please liaise with the below or your usual Maples Group GRS contact.

The Maples Group will continue to monitor the progress of the consultation and the issuance of the final rulebook and guidance. Further updates will be issued once these are available.

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The Maples Group's Irish legal services team is independently ranked #1 among legal service providers in Ireland in terms of total number of funds advised (based on the most recent Monterey Insight Ireland Fund Report, as at February 2024).

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⁴ Domiciled in Ireland and Luxembourg