

# Fund Registration Briefing

## UK Government Confirms Equivalence of EEA UCITS under the Overseas Fund Regime

January 2024

On 30 January 2024, the HM Treasury confirmed the granting of an equivalence decision for states in the EEA under the UK Overseas Fund Regime ("OFR"). The decision marks the first step in the journey towards the operation of the OFR and the re-opening of the UK market for EEA UCITS.

The statement also confirms the intention to extend the period of the current Temporary Marketing Permission Regime ("TMPR") for funds which were registered to market in the UK prior to Brexit for a further 12 months, to end 2026, to ensure such funds are able to smoothly transition to the OFR.

Since Brexit, only funds which availed of the TMPR have been permitted to continue to market UCITS in the UK, or to add newly authorised sub-funds to that temporary marketing permission. There have been extremely limited avenues for new UCITS to gain recognition to market in the UK. This will remain the case until the OFR is operational and open to new applicants.

The FCA issued a Consultation Paper in December 2023 on the proposed operation of the OFR. Responses from industry to the consultation are due by 12 February 2024 with the FCA hoping to publish its final policy statement and final Handbook Rules in Q2 2024.

The Consultation States: *"If the Government grants equivalence to the EEA, we would subsequently begin to process the first OFR applications. We would expect to receive applications from schemes currently in the TMPR, as well as new applications from UCITS domiciled in the EEA jurisdictions.*

*Pending an equivalence decision from the UK Government, operators of schemes will be given landing slots in which to apply for recognition under OFR. More information about landing slots will be published on the FCA website.*

*We would separately publish information about the application process, and our plans for managing an orderly transition of schemes from the TMPR to the OFR, following any Government decision on equivalence."*

The Treasury statement also notes the intention to consult on the potential application of UK sustainable disclosure requirements ("SDR") on funds recognised under the OFR. This is also raised in the FCA Consultation Paper, noting the potential divergence of EEA and UK requirements on SDR over time.

While we recognise the importance of this equivalence decision as a first step in the process of opening the UK market for UCITS under the OFR, a number of

questions still arise in relation to the proposed operation and timing of the OFR:

- *When will the OFR become operational for UCITS in the TMPR (allocation of landing slots) and for new applicants (new applications under the OFR)?*
- *Will landing slots for UCITS in the TMPR be given in priority to applications for new UCITS or will the OFR run side by side with the TMPR?*
- *How much time will UCITS and their Management Companies have to collate the data required for applications under the OFR?*
- *How long will the application process under the OFR take?*
- *Will additional requirements be imposed by the FCA on EEA UCITS recognised under the OFR (e.g. SDR, value for money assessment)?*

We will continue to keep you updated of further information as it becomes available.

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

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