

Global Registration Services – Market Update Q2 2019

Brexit

FCA extension to the UK TPR deadline

On 24 May 2019 the FCA confirmed that they would be again extending the deadline for notifications for the temporary permissions regime ("TPR") to close of business on 30 October 2019. Fund managers who have already submitted TPR notifications may make updates to their notifications by emailing recognisedcis@fca.org.uk by no later than the end of 16 October 2019 to confirm this and include the relevant FRN.

Europe

Proposals adopted for cross-border distribution of investment funds

Our [client update](#) from 14 June 2019 outlined important new EU developments relating to the cross-border distribution of investment funds under the Capital Markets Union ("CMU"). The EU has finalised new rules to facilitate and encourage cross-border fund distribution by removing regulatory barriers and improving cost efficiency. It is also intended to allow EU AIFMs to test market interest in an EU jurisdiction before incurring the expense of passporting an AIF into that jurisdiction. Our client note discusses the main changes and examines how they may affect your business when distributing UCITS or AIFs cross-border including:

- Provision of local facilities;
- Process for update notification;
- Process for de-registration for marketing;
- Marketing communications; and
- Pre-marketing under AIFMD.

New EU Prospectus Regulation

The remaining provisions of the Prospectus Regulation (Regulation (EU) 2017/1129) are due to become effective on 21 July 2019 following a two year implementation period from 20 July 2017.

The latest provisions include:

- Streamlined disclosure requirements for follow-on issuances of securities admitted to trading;
- Fast-track approval process for frequent issuers who maintain an annual universal registration document, which is a new form of shelf registration process; and
- EU growth prospectus regime for SMEs and certain other issuers, with simplified disclosure requirements.

France

AMF updated guidance on the marketing of shares/units of foreign UCITS in France

On 20 June 2019 the AMF issued [an updated catalogue](#) of statutory and regulatory measures relating to the marketing of shares/units in France. The revised guidance sets out France's main provisions from the Monetary and Financial Code, the AMF's General Regulation, and the AMF's instructions, positions and recommendations applicable to the marketing of shares or units of foreign UCITS in France.

Isle of Man

Financial Services Authority published updated regulatory fees for 2019

The Isle of Man Financial Services Authority confirmed that there would be an increase to the regulatory fees for foreign UCITS who market to retail investors in the Isle of Man from 1 April

2019. The regulatory fees differ for foreign UCITS which are domiciled in a country which is deemed a "designated territory" such as Jersey, Guernsey, UK and Ireland and those which are domiciled in a country other than a "designated territory" and are marketed to retail investors. The changes to the regulatory fees are outlined in further detail in the [Collective Investment Schemes \(Fees\) Order 2019](#).

UK

FCA changes to submission of NPPR and material change notifications

On 2 May 2019, the FCA confirmed that from 3 May 2019 onwards non-EU AIFMs who intend to market funds in the UK under the UK's NPPR ("National Private Placement Regime") must submit their NPPR Marketing and Material Change notifications via the [FCA Connect platform](#) rather than using the existing forms. However on 31 May 2019 the FCA published that that due to maintenance, the Connect System would be unavailable for NPPR notifications and material change forms. In the interim period while Connect is unavailable, the completed forms should be sent to NPPRMarketingNotification@fca.org.uk until communicated otherwise by the FCA. These new changes are not applicable to EEA firms which market funds under the UK's NPPR.

Spain

Proposal to facilitate proof of residence for certain EU funds for interest and capital gains exemption

On 9 May 2019 the Ministry of Finance in Spain published a draft Royal Decree which plans to amend the Spanish Non-Resident Income Tax ("NRIT") Regulations in relation to EU pension funds, UCITS and AIFs which will enable them to use evidence entitlement to the interest withholding tax ("WHT") and capital gains exemption available in Spain.

The draft Bill was subject to a public consultation which ended on 31 May 2019, the aim was to ensure that the proof requirements for their pension funds, UCITS and AIFs in particular to certify entitlement to the exemption be relaxed and more streamlined.

Switzerland

FINMA survey and application platform launched for submission of UCITS applications

FINMA announced that from 1 June 2019, applications for foreign collective investment schemes such as UCITS can be submitted via their [survey and application platform](#) ("EHP"). This new process will allow applications and required documents to be filed more efficiently and faster than before. FINMA may still request random samples of original hard-copy documents from the Swiss Representative, therefore hard-copy documents are still required to be executed. As a result of the new online platform, FINMA have reduced their regulatory fees for applications submitted via EHP to CHF 500 for filing of amended documents (prospectus and KIIDs) and CHF 1,000 for liquidation of funds/sub-funds and CHF 500 for a change of representative and/or paying agent.

Asia Pacific

China

SFC amended FAQs relating to open-ended fund companies

On 12 June 2019 the SFC published [revised FAQs](#), the main amendment at Question 20 sets out whether open-ended collective investment schemes ("OFCs") are qualified for the mutual fund recognition ("MRF") arrangements entered into by the SFC.

SFC additional FAQs and updated guidance on regulatory requirements for online and offline sale of complex products

On 13 June 2019 the SFC issued [additional FAQs](#) in relation to the online and offline sale of complex products, which came into effect on 6 July 2019.

New questions were added at Question 35-38 which outline the guidelines for the sale of complex products on an unsolicited basis. The SFC also added The Netherlands as one of the specified jurisdictions for non-exchange traded unauthorised funds and security tokens as an example of a type of complex product.

SFC updated FAQs on ETFs and listed funds

On 28 June 2019 the SFC published updated [FAQs](#) on exchange traded funds and listed funds. The main changes include the addition of Questions 12B and 12C.

- Question 12B outlines whether the SFC considers having a Designated Specialist ("DS") for an ETF as its liquidity provider/market maker as satisfying the market making requirement under 8.6 (p) of the UT Code; and
- Question 12C details any implications on how the management company of the ETF complies with 8.6(p) of the UT Code which aims to reduce the impact of a sudden cessation of market making activities on secondary market liquidity of an ETF.

Australia

ASIC consultation paper on relief for foreign providers of funds management services to Australian professional investors

On 3 July 2019 the ASIC published a consultation paper [CP315](#) which aims to provide relief in relation to the licensing requirements for foreign financial services providers of funds management services in Australia to professional investors.

The main proposals include:

- An exemption for foreign providers from the requirement to hold an Australian Financial Services ("AFS") licence to provide services to investors in Australia;
- The scope of activities that may be undertaken in Australia; and
- Repeal of the "limited connection" relief.

These new proposals take into account feedback received from the financial services industry that there is a requirement for Australian professional investors to be able to access funds management financial services providers outside Australia. The aim of the new proposals is to establish a balance between enabling cross-border investment in addition to protecting marketing integrity and investor protection in Australia.

How the Maples Group can help

Maples Group Global Registration Services ("Maples Group GRS") supports UCITS¹ and AIFMs¹ 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

Should you require any further information or assistance in this regard, please do not hesitate to contact the following or any member of the Maples Group GRS team.

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The Maples Group's Irish legal services team is independently ranked first 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 30 June 2018).*

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¹ Domiciled in Ireland and Luxembourg.