

# Global Registration Services – Market Update Q1 & Q2 2021

## Europe

### *ESMA Reminds Firms of Rules on Reverse Solicitation*

On 13 January 2021, ESMA issued a public statement<sup>1</sup> reminding firms of the MiFID II rules on reverse solicitation.

With the end of the UK transition period on 31 December 2020, ESMA has advised that questionable practices around reverse solicitation, designed to circumvent MiFID II requirements, were being employed by firms.

ESMA stated that 'where a third-country firm solicits clients or potential clients in the Union or promotes or advertises investment services or activities together with ancillary services in the Union, it should not be deemed as a service provided at the own exclusive initiative of the client, [...] regardless of any contractual clause or disclaimer purporting to state, for example, that the third country firm will be deemed to respond to the exclusive initiative of the client'.

ESMA reminded firms that providing investment services in the EU without proper authorisation can expose them to administrative or criminal proceedings and investors may lose protections granted to them under EU relevant rules, including coverage under the investor compensation schemes in accordance with Directive 97/7/EC<sup>2</sup>.

<sup>1</sup>

[https://www.esma.europa.eu/sites/default/files/library/esma\\_35-43-2509\\_statement\\_on\\_reverse\\_solicitation.pdf](https://www.esma.europa.eu/sites/default/files/library/esma_35-43-2509_statement_on_reverse_solicitation.pdf)

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31997L0007>

### *The European Supervisory Authorities Submits Draft Amendments to the European Commission*

On 3 February 2021, the European Supervisory Authorities ("ESA") submitted draft Regulatory Technical Standards ("RTS") to the European Commission, containing amendments to the key information document ("KID") for packaged retail and insurance-based investment products ("PRIIPS").

Should the European Commission adopt the draft RTS, they would be subject to non-objection by the European Parliament and the Council of the European Union. If the draft RTS are adopted within the current implementation deadline, UCITS funds would be required to transition into PRIIPs KIDs by 31 December 2021 in order to market to retail investors.

### *ESMA Publishes Final Report on Marketing Communications under the Regulation on Cross-Border Distribution of Funds*

On 27 May 2021, ESMA published its final report<sup>3</sup> on its guidelines ("Guidelines") under the Regulation<sup>4</sup> on cross-border distribution of funds ("Cross-Border Distribution Regulation"). The Guidelines clarify the requirements that

<sup>3</sup>

[https://www.esma.europa.eu/sites/default/files/library/esma\\_34-45-1244\\_-\\_final\\_report\\_on\\_the\\_guidelines\\_on\\_marketing\\_communications.pdf](https://www.esma.europa.eu/sites/default/files/library/esma_34-45-1244_-_final_report_on_the_guidelines_on_marketing_communications.pdf)

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32019R1156>

funds' marketing communications must meet, which is to:

- Be identifiable as such;
- Describe the risks and rewards of purchasing units or shares of an AIF or units of a UCITS in an equally prominent manner; and
- Contain clear, fair and not misleading information, taking into account the on-line aspects of marketing communications.

ESMA conducted a public consultation<sup>5</sup> on these Guidelines to gather the views of relevant stakeholders. The report published contains a feedback statement summarising the responses received and highlighting the amendments and clarifications introduced in the final guidelines to consider the feedback received during this consultation.

The Guidelines will be translated into the official languages of the EU and published on ESMA's website. The publication of the translations will trigger a two-month period during which national competent authorities ("NCAs") must notify ESMA whether they comply or intend to comply with the Guidelines. The guidelines will apply 6 months after the date of the publication of the translations.

The Cross-Border Distribution of Funds Directive is to be transposed by Member States by 2 August 2021. The substantive provisions of the Cross-Border Distribution Regulation are to apply from that date. For further details see our client update *EU Cross-Border Fund Distribution Rules – Are You Ready?*<sup>6</sup>.

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<sup>5</sup> <https://www.esma.europa.eu/press-news/consultations/consultation-draft-guidelines-marketing-communication>

<sup>6</sup> <https://maples.com/en/knowledge-centre/2021/6/eu-cross-border-fund-distribution-rules-are-you-ready>

### *ESMA Publishes Updated AIFMD Q&A and an Opinion*

On 28 May 2021, ESMA published an updated Q&A<sup>7</sup> on the application of the AIFMD and an Opinion<sup>8</sup> on collecting information for monitoring systemic risk under Article 24(5) of the Directive.

The Q&A update added three new Q&As to the reporting obligations to NCAs under Articles 3, 24 and 42.

The three new questions (Q.84, Q.85 and Q.86) in this section look at what risk is measured by NET DV01, NET CS01 and Net Equity Delta and how these should be reported.

The Opinion refers to ESMA's final report on guidelines on reporting obligations, the aim of which is to clarify the information that AIFMs should provide to their NCAs in order to comply with AIFMD requirements.

Noting that ESMA's reporting template in Annex IV of the AIFMD Delegated Regulation sets out an extensive list of information which AIFMs must report to their NCAs, ESMA is of the view that effective monitoring of systemic risk potentially caused by one AIFM or a group of AIFMs would be facilitated if NCAs adopted a common approach when using their power to require additional information under Article 24(5) and that this additional information would also allow for more comprehensive oversight of AIFM activities by supplementing reporting in such areas as risk measures and short positions.

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<sup>7</sup>

[https://www.esma.europa.eu/sites/default/files/library/esma-34-32-352\\_qa\\_aifmd.pdf](https://www.esma.europa.eu/sites/default/files/library/esma-34-32-352_qa_aifmd.pdf)

<sup>8</sup>

[https://www.esma.europa.eu/sites/default/files/library/esma-50-164-4605\\_opinion\\_risk\\_metrics.pdf](https://www.esma.europa.eu/sites/default/files/library/esma-50-164-4605_opinion_risk_metrics.pdf)

It sets out details of additional information that ESMA considers NCAs could require AIFMs to report periodically under Article 24(5) of AIFMD. It provides clarification on three risk measures (value-at-risk, net FX delta and net commodity delta) by providing guidance to AIFMs, definitions of the relevant risk measures and practical examples to facilitate their reporting.

### *AIFMD MoUs Signed by EU Authorities*

On 24 June 2021, ESMA released an updated list of MoUs<sup>9</sup> signed by EU authorities.

### *ESMA Publishes First Report on National Rules Governing the Marketing of Investment Funds Under the Cross-Border Distribution Regulation*

On 30 June 2021, ESMA issued its first report<sup>10</sup> on national rules governing the marketing of investment funds under the Cross-Border Distribution Regulation. Based on responses provided by NCAs, the report provides an overview of the marketing requirements across Member States and analyses the effects of national laws, regulations and administrative provisions of investment funds. ESMA will submit a new iteration of the report in two years and see here<sup>11</sup> for further details.

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<sup>9</sup> <https://www.esma.europa.eu/document/aifmd-mous-signed-eu-authorities>

<sup>10</sup> <https://www.esma.europa.eu/document/marketing-requirements-and-marketing-communications-under-regulation-cross-border>

<sup>11</sup> <https://thoughts.maples.com/post/102h20n/esma-report-on-marketing-requirements-and-communications-under-cbdf-regulation>

## United Kingdom

### *FCA Updates the TMPR Process for Adding a New Sub-Fund Webpage*

On 31 December 2020, the Financial Conduct Authority ("FCA") updated its webpage<sup>12</sup> explaining the process for adding a new sub-fund to an umbrella scheme in the temporary marketing permissions regime ("TMPR"). It inserted links to the final versions of the following:

- Direction under regulations 63(3)(c) and 64(1) of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019.
- Notification letter for recognition of a new sub-fund. Applicants should only use this form in order to notify the FCA of a new sub-fund that becomes authorised by its home state regulator on or after 11:00pm on 31 December 2020.

### *Update to the FCA's Temporary Permissions Regime Webpage*

On 4 March 2021, the FCA published three new webpages regarding the temporary permissions regime ("TPR"):

- Supervising firms in the TPR<sup>13</sup>;
- Landing slots for firms in the TPR<sup>14</sup>; and
- Cancelling a temporary permission<sup>15</sup>.

The FCA has stated that firms in the TPR are supervised in the same way as other

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<sup>12</sup> <https://www.fca.org.uk/brexit/temporary-permissions-regime-tpr/adding-new-sub-fund-umbrella-scheme-tmpr>

<sup>13</sup> <https://www.fca.org.uk/brexit/temporary-permissions-regime-tpr/supervising-firms>

<sup>14</sup> <https://www.fca.org.uk/brexit/temporary-permissions-regime-tpr/landing-slots-firms>

<sup>15</sup> <https://www.fca.org.uk/brexit/temporary-permissions-regime-tpr/cancelling-temporary-permission>

authorised firms as per Chapter 1 of their Approach to Supervision published in April 2019. The FCA highlights that firms may be subject to different rules than could have been applied to them under the EU passporting regime, such as further reporting and contacting the FCA proactively in order to deal in an open and cooperative way.

A 'landing slot' system has been implemented for certain firms in the TPR whereby the FCA provides a firm with a specified period of time during which it can apply for full Part 4A permission or to vary its existing Part 4A permission. Under the new system, the FCA will send a firm opening and closing dates in between which it can submit its application. Importantly, if a firm doesn't submit an application before its closing date, the FCA can cancel its temporary permission.

The FCA have started allocating landing slots for AIFMs marketing AIF under the UK TPR. Any EU AIFM wishing to continue to market their AIF, EuVECA's and/or EuSEF's in the UK will need to have submitted written notification to the FCA under the NPPR no later than 11:59pm (UK time) on 1 November 2021 (noting the FCA window opens from 1 July 2021).

The FCA has also updated its webpage<sup>16</sup> on the TPR to include links to the above webpages.

### *Financial Services Bill Receives Royal Assent*

The Financial Services Act 2021 ("Act") was published on 30 April 2021, marking a significant step for the UK in shaping its financial services regulatory framework following transition out of the Union.

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<sup>16</sup> <https://www.fca.org.uk/brexit/temporary-permissions-regime-tpr#revisions>

The measures in the Act will, among other enhancements, promote openness between the UK and international markets by simplifying the process to market overseas investment funds in the UK.

### *FCA Webpage on UK AIFMD*

On 20 May 2021, the FCA updated its webpage<sup>17</sup> on the UK Alternative Investment Fund Managers Regulations ("UK AIFMD").

The update concerns changes to reflect the end of the Brexit transition period and the applicability of UK AIFMD rather than the EU Alternative Investment Fund Managers Directive in the UK.

### *Extension of PRIIPS Exemption for UCITS Funds*

On 1 June 2021, in one of the first signs of a post-Brexit divergence from EU fund regulations, HM Treasury ("HMT") announced<sup>18</sup> that the current exemption for UCITS funds from the requirements of the PRIIPS Regulation will be extended by five years to 31 December 2026.

HMT intends to legislate to extend this exemption to 31 December 2026.

## Luxembourg

### *CSSF Issues FAQs Providing Clarification on the Application of MiFID to Luxembourg Investment Fund Managers*

The Commission de Surveillance du Secteur Financier ("CSSF") has issued an update to its

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<sup>17</sup> <https://www.fca.org.uk/firms/aifmd-uk>

<sup>18</sup> <https://www.gov.uk/government/news/announcement-hm-treasury-to-extend-priips-exemption-for-ucits-funds-for-five-years>

FAQs<sup>19</sup> for both UCITS and AIFs to clarify the application of MiFID to investment fund managers.

## Belgium

### *FSMA Consults on Q&As Regarding Advertisements for Investment Products*

Following an open consultation at the end of 2020, on 1 April 2021 the Financial Services and Markets Authority ("FSMA") published Q&As (available in French<sup>20</sup> and Dutch<sup>21</sup> only) regarding advertisements for investment products when they are offered to the public, admitted to trading and distributed to retail clients.

The FSMA Q&As sets out good practice aiming to ensure that advertisements are not inaccurate or misleading and reflect what is contained in the prospectus and seek to ensure these advertisements are prepared in compliance with the content requirements set out in Article 22 of Regulation (EU) 2017/1129<sup>22</sup>.

### *FSMA Integrates ESMA's Guidelines on Performance Fees*

On 1 December 2020, FSMA confirmed that it will integrate the European Securities and Markets Authority's ("ESMA") guidelines<sup>23</sup> on

<sup>19</sup> <https://www.cssf.lu/en/2021/06/publication-of-the-cssf-faq-providing-clarifications-on-the-application-of-mifid-to-luxembourg-investment-fund-managers-ifms/>

<sup>20</sup> [https://www.fsma.be/sites/default/files/legacy/content/FR/circ/2021/fsma\\_2021\\_09\\_fr.pdf](https://www.fsma.be/sites/default/files/legacy/content/FR/circ/2021/fsma_2021_09_fr.pdf)

<sup>21</sup> [https://www.fsma.be/sites/default/files/legacy/content/NL/circ/2021/fsma\\_2021\\_09\\_nl.pdf](https://www.fsma.be/sites/default/files/legacy/content/NL/circ/2021/fsma_2021_09_nl.pdf)

<sup>22</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R1129>

<sup>23</sup> <https://www.esma.europa.eu/sites/default/files/library/esma>

performance fees for UCITS funds and certain AIFs from 5 January 2021.

The guidelines provide comprehensive guidance to fund managers when designing performance fee models for the funds they manage, including the assessment of the consistency between the performance fee model and the fund's investment objective, policy and strategy.

ESMA's guidelines aim to harmonise the way fund managers charge performance fees to retail investors, as well as the circumstances in which performance fees can be paid.

The guidelines apply to new UCITS funds and certain AIFs created after the guidelines were integrated and which intend to make use of performance fees should be compliant upon inception.

Existing UCITS funds and certain AIFs with performance fees should apply the guidelines by the beginning of the financial year following 5 July 2021 (i.e. six months from when the guidelines were integrated).

The AIFs impacted by the guidelines are those which are open-ended and marketed to retail investors in accordance with AIFMD Article 43 except for EUVECAs (or other types of venture capital AIFs), EUSEFs, private equity AIFs or real estate AIFs.

## France

### *French Regulator Reminds UK Firms of their Obligations to French Customers*

On 4 January 2021, the French Prudential Supervision and Resolution Authority ("ACPR")

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[\\_34-39-968\\_final\\_report\\_guidelines\\_on\\_performance\\_fees.pdf](#)

issued a press release<sup>24</sup> reminding UK authorised financial institutions of their obligations towards customers residing in France.

The ACPR press release reiterated that UK financial institutions are required to provide their clients and customers in France, in a clear and comprehensive manner, with tailored information on how their services continue or cease to be provided in France. The ACPR is permitted to monitor the content of communications made to customers residing in France.

The press release comes at the end of the transition period and acts as a warning that the French regulator will not be pushed around by UK authorised financial institutions.

## Italy

*CONSOB Issue Press Release Regarding the Operation of British Financial Intermediaries in Italy after Brexit*

On 2 January 2021, CONSOB issued a press release<sup>25</sup> regarding the introduction of new measures concerning British financial intermediaries operating in Italy after Brexit.

It states that if a British financial intermediary applied, before 31 December 2020, for a new authorisation to operate in Italy, it may carry on its activities performed by it before the end of the transitional period until the authorisation is either granted or refused, in any case no later than 30 June 2021.

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<sup>24</sup> [https://acpr.banque-france.fr/sites/default/files/medias/documents/20210104\\_pr\\_brexit\\_acpr.pdf](https://acpr.banque-france.fr/sites/default/files/medias/documents/20210104_pr_brexit_acpr.pdf)

<sup>25</sup> [https://www.consob.it/documents/46180/46181/com\\_clients\\_20210102\\_EN.pdf/2c18bfe8-f6c8-41b1-91f5-0ea99e15a878](https://www.consob.it/documents/46180/46181/com_clients_20210102_EN.pdf/2c18bfe8-f6c8-41b1-91f5-0ea99e15a878)

During this period, British financial intermediaries can keep on operating in Italy as they await authorisation to do business in the country as non-European Union companies. The intermediary is limited to activities for which its authorisation is sought and to its outstanding contractual relationships. Should a financial intermediary's authorisation application be refused, it must cease its non-authorised activities within three months of the decision in a non-detrimental way towards its clients. British financial intermediaries providing investment services in Italy must give their clients adequate information about the consequences of Brexit.

## Switzerland

*Use of Addenda by UCITS Funds*

The Swiss Financial Market Supervisory Authority ("FINMA") has further strengthened its requirements regarding the integration of addenda into UCITS prospectuses. If the addendum exceeds one page (i.e. both sides), the addendum must be incorporated into the home state approved prospectus and the Swiss prospectus which must be filed with FINMA within three months. This is a change from the previous deadline of six months. FINMA may, on a case by case basis, agree to extend this deadline if they accept a prior explanation as to why it is not possible to meet this deadline. However, this must be agreed in advance of the deadline for implementation lapsing.

Addenda which don't exceed one page (both sides) must still be incorporated into the home state approved prospectus within six months.



### *Marketing of Foreign Funds in Switzerland*

The Financial Services Act<sup>26</sup> ("FinSA") has amended the rules for the distribution and offering of foreign collective investment funds ("Foreign CIS") in Switzerland. When offering Foreign CIS to qualified investors (apart from high net worth individuals when opting out), it is no longer necessary to appoint a Swiss representative or Swiss paying agent. By contrast, when Foreign CIS are offered to retail clients, existing requirements remain largely the same.

Under FinSA where Swiss clients are invited to acquire a foreign fund and the information provided is specific enough for an investor to make an investment decision, the foreign fund will be subject to Swiss law. As before, Foreign CIS must still be approved by FINMA before they can be offered to non-qualified investors in Switzerland. Such offers generally still require a prospectus and where the Foreign CIS is offered to retail clients, an easily understandable key information document must now be produced in addition to the prospectus. Foreign CIS which are exclusively offered to qualified investors do not require approval from FINMA and such offers do not trigger any prospectus or KID publication requirements.

Following the introduction of FinSA it is no longer necessary to obtain a distributor's license in order to offer or advertise funds. However, offering or advertising of Foreign CIS in Switzerland may trigger certain obligations under FinSA such as the registration of client advisers in a Swiss register of advisers or special duties of conduct and due diligence.

### *FINMA Updates Swiss Representatives' Duties to Foreign CIS*

On 1 January 2021, the FINMA replaced its Circular 2013/09 with a revised FINMA Collective Investments Schemes Ordinance<sup>27</sup>, which now contains FINMA's updated supervisory practice regarding the duties of Swiss representatives of Foreign CIS.

The main changes to the duties regard the publication and notification duties of Swiss representatives in relation to Foreign CIS approved by FINMA for offer to non-qualified investors in Switzerland.

FINMA no longer requires a Swiss specific publication summarising the material changes to the relevant fund documents of Foreign CIS (prospectus, articles of association/instruments of incorporation/trust deed, as applicable) anymore but, requires a publication in the Swiss publication instrument of the Foreign CIS of only those changes which are subject to a publication duty in the home state of the Foreign CIS in accordance with the publication/notice published or otherwise issued in the home state.

The content of the Swiss publication must correspond with the publication/notice in the Foreign CIS' home state and furthermore needs to be published in the chosen filing language for the relevant fund documents in Switzerland (either English or any Swiss official language) at the same date as in the home state. This means that, except for the inclusion of the mandatory Swiss information (name and address of Swiss representative and paying agent and location where the relevant documents can be obtained free of charge), the original publication, as the case may be, translated in the Swiss filing language, must be published in Switzerland on the same

<sup>26</sup> <https://www.fedlex.admin.ch/eli/cc/2019/758/en>

<sup>27</sup> <https://www.fedlex.admin.ch/eli/cc/2019/758/en>

publication or mail-out date as in the home state.

Updated fund documents must still be filed with FINMA within 30 days of their entry into force which is understood as 30 days from the home state regulator's approval date of the respective document or a later effective date of the changes.

In addition to existing notification obligations, representatives of Foreign CIS are newly required to notify FINMA immediately if gating is imposed for any Foreign CIS exercises its gate.

The updates are aimed at improving the efficiency of the publication process in Switzerland and alleviating the regulatory burden on Foreign CIS and Swiss representatives.

### *Revision of SIX Swiss Exchange Regulations*

On 1 July 2021, revised regulations of SIX Swiss Exchange on ad hoc publicity and corporate governance will enter into force. The revised regulations will provide changes relevant to issuers of listed securities on SIX Swiss Exchange.

The three key changes are:

- The SIX will abolish the obligation to disclose 'per-se' price sensitive facts, i.e., facts that were previously always qualified as price sensitive and needed to be disclosed regardless of whether they were capable of triggering a significant change in the share price.
- Public announcements that include price-sensitive facts must be explicitly labelled 'ad hoc announcement pursuant to article 53 LR' to distinguish them from other announcements.

- Issuers are required to establish internal rules and procedures governing the process to decide when the publication of a price-sensitive fact is postponed.

The new circular no. 1 of the Issuers Committee<sup>28</sup> dated 10 March 2021 sets out guidance on the interpretation of the amended rules.

## Hong Kong

### *Securities & Futures Commission of Hong Kong Updates FAQs Relating to Open-Ended Fund Companies*

On 3 February 2021, the Securities & Futures Commission of Hong Kong ("SFC") updated its FAQs relating to open-ended fund companies<sup>29</sup>, specifically to Question 24 which deals with Hong Kong scheme money and subscription money.

The SFC has clarified that the requirement under Appendix A of the Code on Open-ended Fund Companies, that Hong Kong scheme money must be paid into a segregated bank account within one business day, applies to subscription money.

Custodians of open-ended fund companies in Hong Kong should be aware of this update as this responsibility lies with them.

### *SFC Updates FAQs and Guidance on Investment Products*

The Guide on Practices and Procedures for Application of Authorisation of Unit Trusts and

<sup>28</sup> <https://www.ser-ag.com/dam/downloads/regulation/listing/circulars/IC-CIR1-en.pdf>

<sup>29</sup> <https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Open-ended-Fund-Companies-20210203.pdf>



Mutual Funds<sup>30</sup> was updated to reflect the merger of the Main Board and Small and Medium Enterprises Board of the Shenzhen Stock Exchange which took effect on 6 April 2021 and credit assessment and related disclosures. Relevant disclosures in the offering documents of any SFC authorised funds should be updated where relevant. Question 19 of section 2 of the FAQ on Post Authorisation Compliance Issues of SFC authorised Unit Trust and Mutual Funds<sup>31</sup> has been updated reflecting revisions to the disclosure and approval requirements for existing SFC authorised funds which intend to make investment in the Mainland market via the Stock Connect.

The FAQ of Mainland-Hong Kong Mutual Recognition of Funds<sup>32</sup> has been updated to include risks expected to be disclosed in the product key facts statement and/or Hong Kong covering document of a recognised Mainland fund and an explanation of illustrative examples of risk disclosures in the Hong Kong covering document of a recognised Mainland fund.

## Singapore

### *New and Revised Regulatory Forms and Templates*

The Monetary Authority of Singapore ("MAS") released<sup>33</sup> a number of updated regulatory

<sup>30</sup> <https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Application-Guide-UTMF-20210428.pdf>

<sup>31</sup> [https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Post\\_Authorization\\_Compliance\\_Issues\\_20210428.pdf](https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Post_Authorization_Compliance_Issues_20210428.pdf)

<sup>32</sup> [https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Mutual-Recognition-of-Funds\\_Mainland-Hong-Kong\\_20210428.pdf](https://www.sfc.hk/-/media/files/PCIP/FAQ-PDFS/Mutual-Recognition-of-Funds_Mainland-Hong-Kong_20210428.pdf)

<sup>33</sup> [https://www.mas.gov.sg/regulation/regulations-and-guidance?sectors=Banking&sectors=Capital%20Markets&sectors=Insurance&sectors=Payments&content\\_type=Forms%20and%20Templates&date=2021-05-06T23%3A00%3A00.000Z%2C2021-05-13T23%3A00%3A00.000Z&page=1](https://www.mas.gov.sg/regulation/regulations-and-guidance?sectors=Banking&sectors=Capital%20Markets&sectors=Insurance&sectors=Payments&content_type=Forms%20and%20Templates&date=2021-05-06T23%3A00%3A00.000Z%2C2021-05-13T23%3A00%3A00.000Z&page=1)

forms and templates in the period from 7 May to 12 May 2021.

### *MAS: Revised Guidelines on Licensing, Registration and the Conduct of Business for Fund Management Companies*

Revised guidelines<sup>34</sup> were issued on 14 May 2021. These guidelines set out the eligibility criteria and application procedures for licensed fund management companies ("LFMCs"), venture capital fund managers ("VCFMs"), and registered fund management companies ("RFMCs").

They also set out the ongoing business conduct requirements for LFMCs, VCFMs and RFMCs, including requirements relating to custody, valuation and reporting, conflicts of interest mitigation, disclosure and submission of periodic returns.

## Japan

### *Proposed Regulatory Regimes for Foreign Investment Managers and Deregulation of Foreign Corporate Client Information Handling*

On 23 December 2020 the Market System Working Group ("MSWG") under the Financial System Council, an advisory group to the Commissioner of the Financial Services Agency of Japan, released their first report concerning establishment of an international financial centre in Japan ("First Report").

The First Report argues for new foreign investment manager regulatory regimes and suggests special exemptions for (i) fund management businesses that mainly managed foreign monies and (ii) investment managers

<sup>34</sup> <https://www.mas.gov.sg/regulation/guidelines/guideline-sfa-04-g05-on-licensing-registration-and-conduct-of-business-for-fund-managers>

that only manage foreign monies during a transition period designed for foreign investment managers managing solely foreign monies pursuant to foreign laws and regulations and considering entry into the Japanese market.

It is expected that if the drafting of legislation progresses, the First Report proposals will be considered by the Japanese government in 2021.

## Canada

### *Proposed Amendments on Registration Information Requirements*

On 5 May 2021, the Canadian Securities Administrators ("CSA") closed a 90 day comment period for Proposed Amendments to NI 33-109 and Related Instruments – Modernizing Registration Information Requirements, Clarifying Outside Activity Reporting & Updating Filing Deadlines<sup>35</sup> ("Proposals").

The Proposals intend to provide greater clarity on the information to be submitted as part of the registration process and reduce the regulatory burden for individuals and firms ("Regulated Persons"), while providing members of the CSA with information necessary to perform their regulatory roles.

The proposals cover six broad areas:

- Establishing a new reporting framework for reporting activities carried out by registered individuals and permitted individuals (collectively "Individual Registrants") outside of their sponsoring firms;

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<sup>35</sup> <https://www.osc.ca/en/securities-law/instruments-rules-policies/3/33-109/proposed-amendments-ni-33-109-and-related-instruments-modernizing-registration-information>

- Extending the deadline to report changes in registration information;
- Reduction of the regulatory burden of certain reporting requirements;
- Amendments to the individual registration form to provide clarifications and improvements aimed at addressing common errors and streamlining certain certification requirements;
- Updates to the privacy notice provided in the registration forms intended to bring the collection, use, disclosure of personal information and data practices in line with the most recent legal requirements; and
- Implementing a new requirement to collect the professional titles used by Individual Registrants.

The proposed targeted changes are not intended to change the nature of the registration process, the requirement to register or the assessment of suitability for registration.

Subject to feedback received and necessary amendments being made to the National Registration Database, the CSA expects the Proposals to come into force at the end of 2021. Once in force, it is expected that Regulated Persons will be required to review their registration information based on the new rules when they are first required to update any registration information. It is expected that changes may to registrants' policies and procedures will be required if the Proposals are adopted.

## India

### *Amendment to Overseas Investment Limits*

On 3 June 2021, the Securities and Exchange Board of India published a circular<sup>36</sup> relaxing

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<sup>36</sup> [https://www.sebi.gov.in/legal/circulars/jun-2021/circular-on-enhancement-of-overseas-investment-limits\\_50415.html](https://www.sebi.gov.in/legal/circulars/jun-2021/circular-on-enhancement-of-overseas-investment-limits_50415.html)

certain Investment limits for mutual funds that make overseas Investments.

The revised limits include:

- Mutual funds can make overseas investments subject to a maximum of US \$1 billion per mutual fund, within the overall industry limit of US \$7 billion; and
- Mutual funds can make investments in overseas exchange traded fund subject to a maximum of US \$300 million per mutual fund, within the overall industry limit of US \$1 billion.

## How the Maples Group Can Help

The Maples Group's Global Registration Services team ("Maples Group GRS") supports UCITS<sup>37</sup> and AIFMS<sup>37</sup> 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 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 and total number of new Irish sub-funds established (based on the most recent Monterey Insight Ireland Fund Report, as at 30 June 2020).**

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<sup>37</sup> Domiciled in Ireland and Luxembourg.