

Global Registration Services Market Update – Q1 2023

Belgium

Increases to FSMA Fees

The Financial Services and Markets Authority ("FSMA") has published its regulatory fees for 2022 for the maintenance of foreign UCITS and AIFs in Belgium with some minor increases as follows:

UCITS

- Initial notification fee (per sub-fund) – EUR 434 (previously EUR 422)
- Annual maintenance fee – EUR 2,965 (previously EUR 2,887)

AIFs

- AIFs distributed to retail investors – EUR 434 (previously EUR 422)
- Self-managed licensed third country AIFs distributed to professional investors – EUR 540 (previously EUR 525)
- Basis maintenance fee for all AIFs distributed to retail investors – EUR 18,520 (previously EUR 18,029)
- Self-managed licensed EEA AIFs distributed to retail investors (differs based on assets under management)

FSMA Issues Q&A on Marketing Communications

On 15 December 2022, the FSMA issued a royal decree in the form of an FAQ which provides for new rules governing advertisements for funds offered to Belgian investors.

The FAQ details the application of the advertising rules at both European and Belgian national level, the expectations of the FSMA with regard to these rules and the procedure to be followed by funds before publishing marketing communications.

The FAQ provides explanations on the applicable advertising rules depending on the product type, the entity which disseminates marketing communications and the public to which it is addressed.

Whilst the FSMA will continue approving marketing communications towards retail investors in advance, the FAQ provides details of certain exceptions which may apply in case of very short marketing communications whereby prior approval may not be required.

In addition, performance information and sustainable related disclosures must be presented in accordance with the European Securities and Markets Authority ("ESMA") Guidelines on Marketing Communications.

Marketing communications made available to Belgian investors must comply with new requirements by 1 March 2023.

Czechia

Annual Maintenance Fees for UCITS and AIFs

Czech National Bank ("CNB") has recently introduced annual regulatory maintenance fees for all foreign investment funds (including UCITS and AIFs) marketed in Czechia. The payment of the maintenance fee will renew entry of the relevant fund onto the CNB List for the following year.

The maintenance fee is CZK10,000 per single fund or CZK10,000 per sub-fund of an umbrella fund.

The maintenance fee must be received by 2 December of each year.

Further information is available online¹.

Ireland

Updates to Central Bank's National Provisions Webpages for UCITS and AIFs

On 27 February 2023, the Central Bank of Ireland (the "Central Bank") updated its website guidance on national provisions governing marketing requirements for both UCITS and AIFs.

The revised guidance provides updated information on the content and format of marketing materials and outlines the Central Bank's approach to verifying marketing communications for UCITS² and AIFs³.

Italy

Increases to CONSOB Fees

On 13 March 2023, the Italian regulator CONSOB published resolution n.22554 setting out CONSOB's supervisory contribution amounts for 2023. There have been slight increases for both UCITS and AIFs annual fees as follows (with fees applying per sub-fund or per standalone fund as relevant):

¹ <https://www.cnb.cz/en/supervision-financial-market/legislation/cross-border-distribution-of-funds/regulatory-fees-and-charges/index.html>

² <https://www.centralbank.ie/regulation/industry-market-sectors/funds/ucits/guidance/publication-of-national-provisions-governing-marketing-requirements-for-UCITS>

³ <https://www.centralbank.ie/regulation/industry-market-sectors/funds/aifs/guidance/publication-of-national-provisions-governing-marketing-requirements-for-AIFs>

UCITS

- Foreign UCITS distributed to professional investors – EUR 1,060 (previously EUR 914)
- Foreign UCITS distributed to the public – EUR 2,290 (previously EUR 1,974)
- Foreign UCITS with subscribers residing in Italy and that were closed for subscription before 2 January 2023 – EUR 1,620 (previously EUR 1,396)

AIFs

- Foreign AIF distributed to professional investors – EUR 1,060 (previously EUR 914)
- Foreign AIF distributed to the public – EUR – 2,090 (previously EUR 1,802)
- Foreign ELTIF distributed to the public – EUR 1,974
- Foreign ELTIF with subscribers residing in Italy and that were closed for subscription before 2 January 2023 – EUR 1,620 (previously EUR 1,396)

Full information is available online⁴.

The Netherlands

Annex IV Reporting for non-EU AIFMs

As outlined in our previous client update⁵, on 8 November 2022, the Dutch Authority for the Financial Markets ("AFM") announced that the AIFMD periodic reporting obligation (Annex IV Reporting) will also apply to non-EU AIFMs with effect from Q1 2023 with non-EU AIFMs obliged to submit their first reports in April 2023.

This applies to all non-EU AIFMs who submitted a notification to the AFM under the following:

- Notified an AIF for marketing under an Article 42 AIFMD notification in the Netherlands;

⁴ <https://www.consob.it/web/consob-and-its-activities/other-regulatory-measures/documenti/english/resolutions/res22135.htm>
⁵ <https://thoughts.maples.com/post/102i3ke/the-netherlands-introduction-of-aifmd-reporting-for-aifms>

- Notified an AIF for marketing under an Article 36 AIFMD notification in the Netherlands; or
- Notified an AIF for marketing in accordance with the Dutch designated state regime (Section 1:13b(1) and (2) or Section 2:66 of the Dutch Financial Supervision Act (Wet op het financieel toezicht)).

The first AIFMD reports are due to be submitted to the AFM in April 2023 through the AFM Portal⁶, using the ESMA template files.

In preparation, non-EU AIFMs need to first create an AFM Portal account. This can be done by registering a director of the AIFM ahead of the filing. The designated director can then authorise other personnel with permissions to file the AIFMD reports on an ongoing basis. Further information on setting up an account can be accessed online⁷.

For further details or assistance with these filings, please contact us.

In addition, the AFM has noted that non-EU AIFMs will be subject to its Data Quality Engagement Framework review from 2024, in which the AFM reviews the data quality of submitted reports with the European Securities and Markets Authority ("ESMA").

UK

Updated Scheme Numbers for Authorised and Recognised Funds

On 13 March 2023, the Financial Conduct Authority ("FCA") published updated figures in respect of investment funds that are structured as collective investment schemes that are (i) authorised and (ii) recognised for promotion to retail investors in the UK.

Full details are available online⁸.

FCA Plans Updates to Firm Reference Numbers and Product Reference Numbers

On 26 January 2023, the FCA noted its plans to move to seven-digit firm reference numbers ("FRN") and product reference numbers ("PRN") for newly registered firms and funds.

The FCA currently uses six-digit FRNs to uniquely identify firms and six-digit PRNs to identify funds. It expects to reach the six-digit limit (999999) and start allocating seven-digit numbers during Q2 of 2023.

Firms previously allocated a six-digit FRN or PRN will retain that number.

Hong Kong

SFC Publishes Quick Reference Guides for Licensing Requirements

On 22 March 2023, the Securities and Futures Commission ("SFC") published quick reference guides to help family offices, private equity firms, hedge fund managers and overseas and mainland industry professionals better understand the SFC's licensing regime.

The guides address FAQs about licensing topics and provide specific information about licensing carve-outs for family offices, recognition of overseas industry experience and qualifications and the availability of exemptions from examination requirements.

The SFC is continuously working to enhance the efficiency and transparency of its gatekeeping function. Since it moved to an all-digital environment in 2022, the average processing time for corporate licence applications from private fund managers has been shortened to approximately 14 weeks.

⁶ <https://portaal.afm.nl>

⁷ https://www.afm.nl/~/_profmedia/files/handleiding/invulinstructie-afm-portaal-en.pdf?la=en

⁸ <https://www.fca.org.uk/firms/authorised-recognised-funds>

The quick reference guides are available on the SFC website⁹. Prospective licence applicants can also reach out to the SFC via dedicated contact points, which can also be found on the SFC website.

Monaco

New Rules for Marketing in Monaco

Act 1.529 of 29 July 2022 was published in Monaco on 12 August 2022 and amends the provisions relating to solicited and unsolicited approaches by authorised and unauthorised companies to offer financial services, instruments or products in Monaco (the "Act"). Please contact us if you would like further information.

United Arab Emirates

Amendments to the Promotion of Foreign Investment Funds in UAE

On 16 January 2023, the Securities & Commodities Authority ("SCA") updated its regulation regarding the promotion of units of foreign investment funds in the United Arab Emirates ("UAE"). As a result, the promotion of foreign investment funds is limited to the private offering to the professional investors in the UAE.

The SCA provided a grace period from 1 January 2023 to 30 June 2023 for certain cases where the marketing to retail investors in the UAE is still authorised. If a binding contract is established with the local promoter to promote foreign investment funds registered in the UAE and this contract is in force at the time of the issuance of the decision, the SCA will consider the immediate cessation of the promotion as a violation of the said agreement.

In this case, the foreign investment funds, through its local legal representative, must have submitted a renewal request for the extension of authorisation of the foreign investment funds to

continue the promotion to retail investors until the end of the contract or until 30 June 2023, (whichever is earlier). This extension request is subject to the payment of renewal fees for the period from the beginning of 2023 until the end of the contract or until 30 June 2023, whichever is earlier. The fee will be determined on a pro rata basis and is based on (5,000) dirhams for the full year. The deadline to request the extension period was 31st March 2023.

For foreign investment funds wishing to convert their distribution regime to professional investors from 31 March 2023 or on 30 June 2023, the local legal representative must send the request to the SCA and pay the prescribed fee of (5,000) dirhams. The deadline to request the conversion regime was 31st March 2023.

For foreign investment funds which neither request the extension period nor apply for the conversion regime before 31 March 2023, the authorisation to market will be revoked and a cancelling fee will be charged. In addition, the local promoter(s) will also have to submit an application to cancel the promotion of the said foreign investment funds and pay the prescribed fee of (1,000) dirhams

After this cancellation, if foreign investment funds want to be promoted in the UAE, a new application must be submitted.

After 30 June 2023, the promotion of foreign investment funds to retail investors in the UAE will only be possible through local public feeder funds, which can be established by foreign issuers.

Professional Investors Regulatory Fee Changes

The SCA decreased its registration fees for foreign funds with effect from 1 January 2023 from AED 35,000 to AED 10,000. Renewal fees have also been decreased with effect from 1 January 2023 from AED 7,500 to AED 5,000.

⁹ <https://www.sfc.hk/en/Regulatory-functions/Intermediaries/Licensing/Quick-licensing-guide>

How the Maples Group Can Help

Maples Group GRS supports UCITS¹⁰ and AIFMs¹⁰ 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 (based on the most recent Monterey Insight Ireland Fund Report, as at 30 June 2022).

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¹⁰ Domiciled in Ireland and Luxembourg.