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UK Government Confirms EEA UCITS Equivalent Under Overseas Funds Regime

By Grace Ncube
Associate

To address the limitations of the current temporary marketing permission regime ("TMPR"), which permits EEA funds marketed in the UK before Brexit to continue to access the UK market, the UK government introduced the overseas funds regime ("OFR"). The OFR allows for investment funds domiciled overseas to be offered to UK retail investors following the end of TMPR.

In a continued show of its commitment to ensuring that, post-Brexit, the UK facilitates access to the domestic market for certain overseas funds, the UK Economic Secretary has announced the UK Government's decision regarding the OFR and its assessment of European Economic Area ("EEA") states. This follows the FCA publishing its consultation on 4 December 2023 on 'Changes to Allow Recognition of Overseas Funds' which is due to close on 12 February with the FCA intending to publish a policy statement with final rules in Q1. See here for our note on the consultation.

The statement confirms the equivalence of EEA states, including EU member states, under the OFR. The government notes its aim is to streamline the process for marketing overseas investment funds to UK investors without additional UK requirements. The government's decision applies to funds structured as UCITS (i.e., regulated funds available to retail investors) with the exception of money market funds, which are excluded due to ongoing regulatory developments.

The government has also committed to regularly monitor this equivalence determination, taking into account both UK and EEA regulatory changes. The government also intends to conduct consultations on broadening sustainable disclosure requirements to encompass OFR-recognised funds. Additionally, the extension of the TMPR until the end of 2026 will enable specific EEA investment funds to continue marketing in the UK, and facilitates the transition to the OFR.

The Economic Secretary highlighted that implementing this decision will require secondary legislation, pending parliamentary availability.
