

**MEMO# 35786**

July 29, 2024

# UK FCA Policy Statement on Implementing the Overseas Funds Regime

[35786]

July 26, 2024

TO: ICI Global Members SUBJECTS: International/Global  
MiFID, EMIR, AIFMD, UCITS V RE: UK FCA Policy Statement on Implementing the Overseas  
Funds Regime

On July 17, the Financial Conduct Authority (FCA) issued a policy statement (PS24/7) setting out its response to the feedback received to Consultation Paper CP23/26, proposing rules and guidance necessary to implement the Overseas Funds Regime (OFR).[\[1\]](#)

## Background

In January 2024, the UK Government announced the first equivalence decision under the OFR regime in relation to Undertakings for Collective Investment in Transferable Securities (UCITS) established and authorized in states in the European Economic Area (EEA) (except for money-market funds). These funds, many of which are currently accessing the UK market through the Temporary Marketing Permissions Regime (TMPR), will be able to apply to the FCA for recognition to market to UK retail investors (OFR recognition). The TMPR is currently due to end in December 2025, but the Government can extend it further.

In May 2024, together with HM Treasury, the FCA published a roadmap setting out the key dates and processes for operators of overseas funds to apply for OFR recognition, as well as a webpage setting out when and how operators in scope of the Government's decision should apply for recognition. The FCA continues to work on opening the gateway for EEA UCITS to apply for OFR recognition later this year.

If the UK Government decides to make any further equivalence determinations under the OFR, the FCA will use this same regime to recognize those funds.

## Summary of PS24/7

PS24/7 details the final rules and guidance that the FCA is introducing for funds to apply for OFR recognition and includes:

- information that OFR fund operators will need to submit to the FCA inform the

recognition decision;

- ongoing change notification requirements for OFR funds;
- disclosure requirements for OFR funds to inform investors about the possible lack of access to the UK Financial Ombudsman Service (FOS) or Financial Services Compensation Scheme (FSCS), and whether any overseas compensation or alternative dispute resolution schemes are available;
- procedures for suspending and revoking recognition of an OFR fund or censuring its operator or depositary; and
- providing UK facilities for investors to easily receive information and provide instructions concerning their investment.

ICI Global submitted a response to the consultation on the rules and guidance, raising certain questions and concerns with the proposed approach.<sup>[2]</sup> Certain of these concerns and issues we addressed in PS24/7, but others were not, as further described below.

- **Misleading Names:** The FCA declined to address at this time concerns that its provisions regarding inappropriate or misleading names could prevent funds with sustainability-related goals from being recognized under the OFR. PS24/7 explains that the UK Sustainability Disclosure Requirements (SDR) does not currently apply to OFR funds, and that the Government has announced that it will consult on whether the UK SDR and labelling regime should be extended to OFR funds. Following consultation, if the Government chooses to extend the regime to OFR funds, the FCA expects that it would need to consult on rules reflecting that decision.
- **Information on Costs and Fees:** We had expressed concern that, based on the specificity of the data being required, it is unclear whether funds will need to meet certain minimum requirements, known internally only by the FCA, in order to be recognized and not terminated and/or - even more worryingly - whether the provision of this information will, in effect, lead to price intervention. The FCA declined to make changes.
- **Notification of Changes:** We had expressed concern with the FCA's requirement to provide notification of certain changes 30 days in advance. The FCA has revised this so that OFR operators will not require approval from the FCA for the change and need not give advance notice where this is impractical to provide.
- **Disclosure Regarding Lack of Access to FSCS and FOS:** As we had recommended, the FCA has specified that the enhanced prescribed disclosures regarding the FSCS and FOS can be provided in a UK supplement to the OFR fund's prospectus. Additionally, the FCA has not adopted a requirement for enhanced disclosure through digital means, which we had opposed, and stated that this will be considered further as part of the implementation of the Future Disclosure Framework.

Eva M. Mykolenko  
Associate Chief Counsel - Securities Regulation

#### Notes

<sup>[1]</sup> PS24/7 is available at <https://www.fca.org.uk/publication/policy/ps24-7.pdf>.

<sup>[2]</sup> Our comment letter is available at <https://www.ici.org/system/files/2024-02/35614a.pdf>.

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.