

**International Funds Net**  
Country updates

March 2022



## Europe

### European Union



#### EU Commission adopts Delegated Regulation on PRIIPs KIDs amendments

Delegated Regulation (EU) 2021/2268 amended the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulatory Technical Standards (RTS) set out in Delegated Regulation (EU) 2017/653 in relation to, among other things, the presentation and contents of Key Investor Documents (KIDs), including methodologies for the calculation and presentation of risks, rewards and costs. It entered into force on 9 January 2022, with the new requirements set to apply from 1 July 2022. The EU Commission has since adopted a new Delegated Regulation extending the application date of Delegated Regulation (EU) 2021/2268 from 1 July 2022 to 1 January 2023. The new Delegated Regulation also extends the transitional arrangements under Regulation (EU) 2021/2268 that are consistent with the extended transitional arrangements in Article 32 of the PRIIPs Regulation to allow PRIIPs manufacturers that offer investment funds as the only underlying investment options, or alongside other investment options, to continue using, for the purposes of producing PRIIPs KIDs, key investor information documents produced in accordance with Articles 78 to 81 of the UCITS Directive until 31 December 2022.

The new Delegated Regulation will enter into force on the twentieth day following its publication in the Official Journal.

### Ireland



#### Publication of national provisions governing marketing requirements for AIFs

On 4 March 2022, the Central Bank of Ireland (CBI) revised their publication detailing the national provisions governing marketing requirements for alternative investment funds (AIFs). In application of Article 1 of the Commission Implementing Regulation (EU) 2021/955, the publication lists the national laws, regulations and administrative provisions governing marketing requirements referred to in Article 5(1) of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating

cross-border distribution of collective investment undertakings. The publication summarises the marketing requirements for AIFs as follows:

- 1) Notification and prior approval of marketing;
- 2) Notification and prior approval of marketing communications;
- 3) The requirements of marketing to retail or to professional investors;
- 4) Additional requirements applicable in particular to the marketing of certain categories of AIFs that exist under national law (e.g. private equity or real estate AIFs); and
- 5) Any other requirements for the marketing of AIFs that the competent authority considers appropriate.

The AIFMD (Directive 2011/61/EU) is implemented into Irish law by the European Union (Alternative Investment Fund Managers) Regulations 2013 [S.I. No 257 of 2013] (as amended) (the AIFM Regulations). In addition to the AIFM Regulations, the Central Bank has published a rulebook (the AIF Rulebook) which sets out the Central Bank's requirements for AIFs.

In addition to the above provisions, which are set out specifically for the marketing of AIFs, there may be other legal provisions that may apply when marketing them in Ireland, although they are not specifically designed for the marketing of AIFs, depending on the individual situation of those involved in the marketing of shares or units of AIFs.

### Italy



#### Changes to conditions of participation in reserved AIFs published in Italian Official Gazette

On 15 March 2022, the Decree of the Ministry of Economy and Finance No. 19, of 13 January 2022 was published in the official Italian Gazette No. 62. The Decree amends Decree No. 30 of 5 March 2015, implementing article 39 of Legislative Decree No. 58 of 24 February 1998 (TUF), as regards the determination of the general criteria with which Italian Undertakings for Collective Investment in Savings (OICR) must comply. The amendments are aimed at modifying the entry thresholds for reserved Italian AIFs.

The definition of 'semi-professional investors'

– in addition to non-professional investors committing to invest at least EUR 500,000 in the AIF – shall now include:

- non-professional investors who subscribe for the AIF in the context of receiving investment advice, for a minimum of EUR 100,000, provided that, upon subscription, the total amount of reserved AIFs in the portfolio of the relevant investor does not exceed 10% of their overall financial portfolio. The firm providing advice shall be responsible, based on information provided by the relevant client, for satisfying itself that the above conditions are met; and
- firms providing portfolio management that subscribe for the AIF for the account of their non-professional investor clients, for a minimum of EUR 100,000 (for each client).

The change comes into force on 30 March 2022.

## UK overseas territories

### Bermuda



### British Virgin Islands



## EU Annex II Update – Bermuda & BVI

On 24 February 2022 the European Council confirmed that ten countries, including Bermuda and the British Virgin Islands (“BVI”), will be included in Annex II of its list of non-cooperative jurisdictions for tax purposes. Annex II is a list of jurisdictions that have made sufficient commitments to reform their tax policies but remain subject to close monitoring while they are executing on their commitments. It is expected that countries that have met their commitments will be removed from Annex II in 2022.

No direct penalties or sanctions will be imposed by any EU member states on entities or institutions in listed jurisdictions as a result of their inclusion in Annex II. In particular, it will not give rise to any impediments or repercussions for European investors investing in Bermuda or BVI based structures. The Annex II list is separate and distinct to the EU’s Annex I list (also known as the EU Tax Blacklist) and the EU AML List, neither of which Bermuda and BVI are included on.

## Asia Pacific

### Australia



## ASIC consults on financial services licensing requirements for corporate collective investment vehicles

The Australian Securities and Investments Commission (ASIC) has launched a consultation seeking industry feedback on its proposed licensing requirements for corporate collective investment vehicles (CCIVs).

The consultation paper sets out ASIC’s proposals on various licensing-related matters, along with how it intends to:

- assess Australian financial services (AFS) licence applications from corporate directors seeking to operate a CCIV;
- assess AFS licence applications from individuals seeking to provide financial product advice on, and/or deal in, CCIV securities; and
- administer the licensee obligations that will apply to CCIV corporate directors.

The consultation also proposes updates to five licensing-related regulatory guides. The licensing requirements will come into effect on 1 July 2022 when the CCIV regime commences. The deadline for comments on the consultation is 14 April 2022.

### Hong Kong



## Streamlining of requirements for eligible exchange traded funds adopting a master-feeder structure

On 25 February 2022, the Hong Kong Securities and Futures Commission (SFC) published a Supplemental Circular which further streamlining the requirements for eligible exchange traded funds (ETFs) adopting a master-feeder structure. In December 2019, the SFC first introduced the streamlined requirements for eligible ETFs adopting a master-feeder structure which, provided certain conditions are met, allows an SFC-authorized feeder ETF to invest its assets in an overseas-listed master ETF without the latter obtaining the SFC authorisation.

Prior to the Supplemental Circular, the overseas-listed master ETF must have a fund size of not less than USD 1 billion and a track

record of more than five years at the time of the feeder ETF's listing on the Stock Exchange of Hong Kong (SEHK). The SFC is now prepared to relax the fund size and track record requirements for overseas-listed master ETFs. Under the revised requirements announced in the Supplemental Circular, an eligible master ETF must have a fund size of not less than USD 400 million and a track record of more than one year at the time of the feeder ETF's listing on the SEHK. the following conditions remain unchanged:

- the master ETF must be a scheme regulated in a recognised jurisdiction managed by a management company in an acceptable inspection regime or a scheme eligible under a mutual recognition of funds arrangement;
- the master ETF, together with its management company and trustee/custodian, must have a good compliance record with the rules and regulations of its home jurisdiction and (in the case of master ETF) the listing venue;
- the master ETF must adopt physical replication of the underlying index through either a full replication or a representative sampling strategy; and
- the master ETF's engagement in securities financing transactions should not exceed 50% of its total net asset value unless there are comparable safeguards and disclosure.

## Thailand



### Thailand's SEC to Update Definitions of Institutional and High-Net-Worth Investors

In March 2022, the Securities and Exchange Commission of Thailand (SEC) issued Notification No. Kor Jor 39/2564 with the purpose of refreshing the definitions of institutional, high-net-worth (HNW), and ultra-high-net-worth (UHNW) investors. The Notification will be effective on 1 October 2022.

The SEC's list of institutional investors will be expanded to include the following types:

- Venture capital
- Private equity

- Sophisticated/professional investors
- Stakeholders of the issuer

In general, the new notification lowers financial thresholds for the definitions of HNW and UHNW investors. Under the new notification, HNW investors include individuals with net assets of at least THB 30 million, annual income of at least THB 3 million, or gross direct investment in securities and derivatives of at least THB 8 million (or THB 15 million if cash deposits are aggregated). UHNW investors include individuals with net assets of at least THB 60 million, annual income of at least THB 6 million, or gross direct investment in securities and derivatives of at least THB 15 million (or THB 30 million if cash deposits are aggregated).

## Middle East and Africa

### Philippines



### Amendments to the Foreign Investment Act

On 2 March 2022, President Rodrigo Duterte signed Republic Act No. 11647 ("R.A. 11647") into law which further amends the Foreign Investments Act ("FIA") (Republic Act No. 7042). The notable amendments include:

- 1) The creation of an Inter-Agency Investment Promotion Coordination Committee ("IIPCC")
- 2) The introduction of the Foreign Investment Promotion and Marketing Plan ("FIPMP")
- 3) Reserving micro and small domestic market enterprises to Philippine nationals.
- 4) A review of Foreign Investments Upon Order of the Philippine President
- 5) Tax compliance by export enterprises
- 6) Anti-graft practices in foreign investment promotions

## Your contacts

Please note that this update on recent legal developments is not designed to provide legal advice and it is advisable to consult with local legal counsel before any actual undertakings.

For more information on these updates or about FundsNet, our specialist solution for global AIFs and UCITS distribution activities, please contact:



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