

International Funds Net
Country updates

October 2022



Europe

European Union



European Securities and Markets Authority issues public statement on the impact of inflation in the context of investment services to retail clients

Over the past months inflation rates have risen in the European Union and this growth in inflation has impacted households both in their daily lives and in their investments and investment decisions.

The European Securities and Markets Authority ("**ESMA**") issued a public statement to remind firms of the relevant MiFID II requirements as it believes that investment firms may play a role in considering inflation and inflation risk, both when manufacturing and distributing investment products, as well as when providing investment services to retail clients, in the interest of investor protection. ESMA's public statement mainly covers the following areas:

- Fair, clear and not misleading;
- Suitability; and
- Product governance requirements.

ESMA expects that manufacturers and distributors consider the effect of the expected inflation in their product governance processes.

Information kindly provided by Mamo TCV Advocates in Malta.

Cyprus



Cyprus transposes PRIIPs KID Directive into national law

On 7 October 2022, Cyprus published in the Official Gazette of the Republic the Undertakings for the Collective Investment in Transferable Securities (Amendment) Law 2022 (N.154(I)/22) (the "**Amendment Law**") which transposes Directive (EU) 2021/2261 into national law.

In summary, the Amendment Law, the provisions of which will come into force on 1 January 2023, provides that:

- a) when a Cypriot undertaking for collective investment in transferable securities ("**UCITS**") draws up, provides, revises and translates a key

information document which complies with the requirements for key information documents laid down in the Regulation (EU) 1286/2014 (PRIIPs Regulation), the Cyprus Securities and Exchange Commission ("**CySEC**") considers the key information document to satisfy the requirements applicable to key investor information set out in the national law provisions transposing Articles 78 to 82 and Article 94 of the Directive 2009/65/EC (UCITS Directive).

- b) CySEC does not require Cypriot UCITS to draw up key investor information in accordance with the national law provisions transposing Articles 78 to 82 and Article 94 of the UCITS Directive, where it draws up, provides, revises and translates a key information document which complies with the requirements for key information documents set out in the PRIIPs Regulation.

Information kindly provided by Harneys in Cyprus.

Greece



Hellenic Capital Market Commission issues new circular in relation to the marketing of UCITS of other EU Member States in Greece

On 6 October 2022, the Hellenic Capital Market Commission ("**HCMC**") issued Circular 61 "*Information on the relevant laws, regulations and administrative provisions which are specifically relevant to the arrangements made for the marketing of UCITS in Greece*", replacing the previous circular in this area.

Circular 61 reflects the provisions of EU Directive 2019/1160 on cross-border distribution of funds and the key changes introduced thereby are the following:

- Although under the new legislative framework there is no requirement to appoint a local agent (i.e. distributor, paying agent), the appointment of a paying agent and a distributor that will be responsible for the marketing of UCITS is recommended by the HCMC.
- The UCITS management company (and not the distributor as per the previous regime) is required to report / submit to

the HCMC the statistical data of the UCITS marketed in Greece (i.e. information regarding the UCITS management company, the potential distributor of UCITS in Greece, the UCITS, the Compartment, ISIN of the Share Class, the number of Greek unit-holders, the number of outstanding Units/Shares that Distributor's clients hold, their Net Asset Value (NAV) and the NAV publication link) within the first 10 business days of each calendar quarter and will refer to the data of the last day of the previous calendar quarter.

Information kindly provided by Zepos & Yannopoulos in Greece, and Souriadakis Tsibris in Greece.

Malta



Malta Financial Services Authority issues circular on amendments to Investment Services Rulebooks

On 4 October 2022, the Malta Financial Services Authority ("MFSA") issued a circular to notify the public of the amendments made to the Investment Services Rulebooks to implement the revised ESMA guidelines on stress test scenarios under the Money Market Funds Regulation (the "MMF Regulation").

On 4 May 2022, ESMA published the ESMA guidelines on stress test scenarios under the MMF Regulation. Several amendments have been made to the Investment Services Rulebooks in order to update the reference to this latest iteration of the ESMA guidelines.

Changes have been made to the following standard licence conditions ("SLC"):

- SLC 7.04 of Part BII: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as UCITS Management Companies (Section 7: Supplementary Licence conditions applicable to UCITS Manager managing MMFs).
- SLC 13.03 of Part BIII: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as Alternative Investment Fund Managers - (section 13: Supplementary Licence conditions applicable to AIFMs managing MMFs).
- SLC 8.44 of Part B of the Standard Licence

Conditions Standard applicable to Alternative Investment Funds – (Section 8 - Supplementary Licence conditions applicable to Self-managed AIFs).

- SLC 25.3 of Part BII of the Standard Licence Conditions Standard applicable to Malta based Retail UCITS Collective Investment Schemes (Section 25 - Supplementary Licence Conditions applicable to Schemes set up as Money Market Funds).

The above-mentioned revised Rulebooks entered into force on 5 October 2022.

Information kindly provided by Mamo TCV Advocates in Malta, and Conti Legal in Malta.

Sweden



Swedish Government and Swedish Financial Supervisory Authority make legislative and regulatory changes in advance of the transition to PRIIPs KIDS

On 29 September this year the Swedish government sent a draft bill for referral with the Council on Legislation (Sw. *Lagrådet*). The bill contains proposed legislative changes concerning, *inter alia*, the transition from UCITS KIIDs and AIF KIIDs to PRIIPs KIDS that were originally presented in a memorandum in May 2022.

The proposed legislative changes entail that UCITS and AIF managers shall not be obliged to produce or provide two different information documents for the same fund. Therefore, a PRIIPs KID shall be considered to meet the requirements for a UCITS KIID or an AIF KIID. The same bill further entails the proposal that the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) (the "SFSA") may decide that a division of a UCITS or special fund may be carried out earlier than the otherwise applicable time frame of three months.

In light of the proposed legislative changes above and the PRIIPs regulation, the SFSA has, with the assistance of the Swedish Investment Fund Association (Sw. *Fondbolagens förening*), proposed amendments to its regulations (FFFS 2013:9) regarding Swedish UCITS (Sw. *Finansinspektionens föreskrifter om värdepappersfonder*) and its regulations (FFFS 2013:10) regarding AIF managers (Sw. *Finansinspektionens föreskrifter om förvaltare av alternativa investeringsfonder*) (the

“Regulations”).

Under the proposed amendments, the rules on the provision of and language in KIIDs in the Regulations shall not apply to such KIIDs that are drawn up, provided, amended, and translated in accordance with the requirements in the PRIIPs regulation, i.e., documents that meet the requirements of a PRIIPs KID.

Further, in relation to the SFSA’s regulations regarding AIF managers, it is proposed that amendments are made to the provisions applicable to KIIDs which shall be submitted when an AIF manager applies for authorisation to market AIFs and when a foreign AIF manager applies for authorisation to manage a special fund. The SFSA also proposes a few clarifying administrative amendments that apply to foreign AIF managers who conduct business in Sweden under Chapter 5, Section 2 or Section 11 of the Swedish AIFM Act (*Sw. lag (2013:561) om förvaltare av alternativa investeringsfonder*).

Both the legislative changes and the amendments to the Regulations are proposed to enter into force on 1 January 2023.

Information kindly provided by our Eversheds Sutherland office in Sweden.

UK



UK Register of Overseas Entities now in force

The UK’s Register of Overseas Entities took effect on 1 August 2022.

Certain overseas entities owning UK property will need to register with the UK Companies House and provide information on beneficial owners, i.e. any individual or entity having significant influence or control over the entity. Entities that have made relevant disposals of land since 28 February 2022 must also provide information about their beneficial ownership immediately prior to the disposal.

The register is a requirement of the Economic Crime (Transparency and Enforcement) Act 2022 (“**Economic Crime Act**”), which is aimed at improving transparency in ownership of UK real estate and allowing for more effective investigation of suspicious wealth.

Entities already holding UK property must file the required information during the six month transitional period, which is open now and runs to the end of January 2023.

The overseas entity and its officers will be responsible for providing information for registration purposes and annual updates or confirmations that no reportable changes will be required.

Failure to comply with the Economic Crime Act’s requirements is a criminal offence and will affect an entity’s ability to deal with UK property (though there are some exceptions for those in limited circumstances).

Information kindly provided by Ogier in the Cayman Islands.

UK overseas territories

Bermuda



European Council removes Bermuda from the EU Tax Grey List

The European Council has removed Bermuda from Annex II of its list of non-cooperative jurisdictions for tax purposes (the EU Tax Grey List).

While Annex I (the EU Black List) is a list of countries that have failed to meet the EU’s criteria, 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.

The European Council said in a statement: *“The commitment of Bermuda with regard to the Organisation for Economic Co-operation and Development’s Forum on Harmful Tax Practices’ recommendations on the effective implementation of substance requirements was deemed fulfilled, resulting in the deletion of the reference to this jurisdiction in the state of play document.”*

Information kindly provided by Walkers in Bermuda.

Cayman Islands



Cayman Islands Monetary Authority set out revised regulatory procedure for the deregistration of funds

In August 2022, the Cayman Islands Monetary Authority (“**CIMA**”) issued a new Rule on the Cancellation of Licences or Certificates of Registration for Regulated Mutual Funds and Registered Private Funds, together with related Regulatory Procedures for Mutual Funds and Private Funds.

The key changes relate to the timing of the

deregistration process and the elimination of the option to place a fund in 'Licence under Termination' ("LUT") or 'License under Liquidation' ("LUL") status with CIMA. Previously, a fund in the process of winding down was able to be put in LUT or LUL status before it had made any final distributions and filed its final audit. If the fund was in LUT or LUL on or before 31 December in any year, the fund was eligible for a reduction (or in some cases, refund) of the annual registration fees for the following year.

The new Rule now requires a fund to notify CIMA within 21 days of ceasing, or formally intending to cease, to carry on business as a fund and then complete and file its audit before deregistration documents can be filed. Generally speaking, a fund is considered to cease carrying on business on the date stated within the relevant resolution or decision of the fund's operators or upon the appointment of a liquidator.

As LUT and LUL status are no longer available, the fund will be liable for registration fees, until it is deregistered by CIMA. Failure to notify CIMA within the 21 day period will result in an administrative fine.

The new Rule and Regulatory Procedures apply to any deregistration applications received after 17 August 2022. Funds that had LUT or LUL status on 17 August 2022 will remain to be treated under the previous regime.

CIMA notifies change in distribution method for AML Surveys

On 19 August 2022, CIMA issued a Notice relating to a change in distribution methods for AML Survey forms. The Notice advises all regulated financial service providers (FSPs) that the AML inherent risk, the AML risk controls and the cash flow return forms will be combined into one annual AML Survey form which will be sent out to the email contacts listed by the FSPs with CIMA. Previously, the three separate forms were available via CIMA's Regulatory Enhanced Electronic Forms Submission portal.

The surveys were sent out during September 2022, with the initial due dates having been extended in certain cases.

Department for International Tax Cooperation issues updated economic substance guidance

The Cayman Islands Department for International Tax Cooperation ("DITC") has published an updated version 3.2 of the 'Economic Substance for Geographically

Mobile Activities Guidance' dated July 2022 (the "**Guidance**"), which replaces the previous version issued on 30 June 2021.

The Guidance has been updated in relation to entities that are not 'relevant entities' for the purpose of the economic substance ("ES") legislation because they are tax resident outside the Cayman Islands ("TRO"). In particular, the Guidance now clarifies that as a general rule, the Cayman Islands Tax Information Authority requires any entity claiming to be tax resident outside the Cayman Islands to provide the following evidence:

- To substantiate that the entity is TRO, sufficient proof includes one or more of the following documents:
 - certificates or letters issued by the competent tax authority of the other jurisdiction;
 - tax assessments, demands, or evidence of payment issued by the competent tax authority of the other jurisdiction;
 - tax returns submitted to the competent tax authority of the other jurisdiction; or
 - rulings issued by the competent tax authority of the other jurisdiction.
- To evidence that the entity is subject to the other jurisdiction's corporate income tax system, sufficient proof includes the following documents:
 - tax assessments, demands, or evidence of payment issued by the competent tax authority of the other jurisdiction;
 - tax returns submitted to the competent tax authority of the other jurisdiction;
 - confirmation that the entity is required to submit a corporate tax return to the competent tax authority of the other jurisdiction.

The updated Guidance further notes that claims of tax residence in certain jurisdictions will not be accepted, as those jurisdictions do not have a corporate income tax system. The named jurisdictions are Anguilla, Bahamas,

Bahrain, Barbados, Bermuda, British Virgin Islands, Turks and Caicos Islands and the United Arab Emirates.

In the absence of the evidence set out above, an entity will be regarded as a 'relevant entity' for the purposes of the ES legislation and the TRO exemption will not be applied.

Cayman Islands Ministry of Financial Services & Commerce announces new beneficial ownership guidelines

The Cayman Islands Ministry of Financial Services & Commerce announced on 26 July 2022 that Guidance Notes on Complying with Beneficial Ownership Obligations in the Cayman Islands have been issued by the Competent Authority. The Guidance Notes, which are dated 18 July 2022, include the following topics:

- i) guidance on the beneficial ownership test; and
- ii) relevant changes and filing obligations for entities in liquidation or upon the death of a beneficial owner.

The Ministry's media release also reminded industry that:

- Amendments to Cayman's beneficial ownership legislation, requiring the filing of 'valid and unexpired' passport details, came into force on 10 June 2022.
- Failure to provide adequate, accurate and up-to-date beneficial ownership information may result in an administrative fine being assessed against an entity.

Information kindly provided by Mourant in the Cayman Islands.

Guernsey



Guernsey Financial Services Commission launches Natural Capital Fund regime

The Guernsey Financial Services Commission ("GFSC") has launched its Natural Capital Fund framework, which creates a regulatory designation for funds to help channel investment into biodiversity and natural capital projects that make a positive contribution and/or significantly reduce harm to the natural world.

The Natural Capital Fund framework will complement the Bailiwick's existing regulated Guernsey Green Fund regime, which now channels more than £4.9 billion into green investments. The new framework also marks the completion of a pledge made as part of COP26 to extend the commission's regulatory regime to include sustainable funds.

GFSC expands green criteria in the Guernsey Green Fund regime

The commission has expanded the green criteria in the Guernsey Green Fund regime to include the EU Taxonomy for Sustainable Activities' technical screening criteria for activities contributing to climate change mitigation and adaptation. The new rules and guidance came into effect on 20 September 2022.

GFSC publishes new anti-greenwashing guidance for investment sector

The GFSC has published anti-greenwashing guidance for the investment sector to ensure that adequate disclosures are made to investors in respect of any environmental sustainability claims made. The new rules and guidance came into effect on 20 September 2022.

Information kindly provided by Ogier in Guernsey.

Jersey



Amendments to Jersey's limited partnership framework enter into force

Amendments to the Limited Partnerships (Jersey) Law 1994 came into force on 12 August 2022.

The amendments provide welcome enhancement, modernisation and clarification to the law. Existing limited partnership agreements will not need to be revised to take account of the changes.

A more detailed account of the changes is set out in the May 2022 edition of this update, accessed at the following link: <https://www.eversheds-sutherland.com/documents/services/financial/fundsnet/FundsNet-Country-Updates-May-2022.PDF>.

Follow-up consultation paper issued on AML/CFT scope exemptions

On 14 September 2022, the Jersey Financial Services Commission ("JFSC") published a follow-up consultation paper seeking feedback on the proposals and other matters

concerning implementation of the amendments to Schedule 2 of the Proceeds of Crime (Jersey) Law 1999.

This follows the 'recast' of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999 earlier this year to better align the businesses in scope for Anti-Money Laundering / Combating the Financing of Terrorism ("AML/CFT") obligations with standards set by the Financial Action Task Force ("FATF").

In brief, these amends have meant certain 'blanket' exemptions from direct AML/CFT obligations will no longer apply for many businesses (now referred to as 'previously exempt supervised persons' ("PESPs")).

The consultation paper reflects discussion by the JFSC and industry on how the role of the regulated Jersey administrator, who previously conducted PESPs' AML/CFT obligations, can be formalised in order to support PESPs with their new direct obligations. In broad terms, it is likely that businesses will be able to engage administrators – referred to as 'designated service providers' or 'DSPs' – to perform the AML/CFT function.

Information kindly provided by Ogier in Jersey.

Americas

Canada



Canadian Council of Insurance Regulators begins consultation on segregated funds discussion paper

On 8 September 2022, the Canadian Council of Insurance Regulators (the "CCIR") and the Canadian Insurance Services Regulatory Organizations (the "CISRO"), collectively, (the "Insurance Regulators") commenced a sixty-day consultation period with respect to their *Discussion Paper on Upfront Compensation in Segregated Funds* ("Discussion Paper").

The consultation seeks to understand current compensation arrangements for segregated funds ("seg funds") and whether additional changes are required with respect to upfront compensation more generally in order to ensure the fair treatment of customers, to minimize conflicts of interest and to enhance harmonization between mutual funds and seg funds. Potential changes identified for consultation include:

- i) a total ban on upfront commissions;

- ii) a cap on the amount of the commission;
- iii) limits on the duration of chargeback periods;
- iv) enhanced disclosure of potential costs or negative effects;
- v) requiring upfront commissions to be reasonably proportionate to the value of the product and the amount of service provided to the investor; and
- vi) increased monitoring of intermediaries with chargeback debt owing to an insurer or a managing general agent.

The Discussion paper asks the following questions:

- 1) Does the Discussion Paper accurately describe the current environment in which customers are offered IVICs and segregated funds?
- 2) Should other Targeted Customer Outcomes besides those presented be considered?
- 3) Questions relating to different sales charge options, including their prevalence, whether there are common rates, how charges to the customer are determined, how the options align with the Targeted Customer Outcomes, and how insurers and intermediaries can encourage innovation and flexibility in the ways that customers can pay for advice.
- 4) What is the extent to which insurers and intermediaries provide payments or benefits for the sale of seg funds or IVICs (other than the commission rates set out in Information Folders and Fund Facts) and how do these payments or benefits align with the Targeted Customer Outcomes?
- 5) If a total ban on upfront compensation or upfront commissions were implemented, what are the insurance sector considerations to take into account for achieving the Targeted Customer Outcomes (for example, transition time, qualitative and quantitative costs and benefits to insurers, intermediaries and customers)?

- 6) If alternative or complementary regulatory measures to a ban were considered, which regulatory measures would help achieve the Targeted Customer Outcomes?

Insurers, intermediaries and industry associations can submit their views to the CCIR Secretariat at ccir-ccra@fsrao.ca by 7 November 2022. Following the consultation process, it is expected that the Insurance Regulators will move forward swiftly with a policy position and guidance setting out their expectations for insurers and intermediaries.

Canadian Securities Administrators announces adoption of "Listed Issuer Financing Exemption"

On 8 September 2022, the Canadian Securities Administrators ("**CSA**") announced the adoption of a new prospectus exemption for issuers listed on a Canadian stock exchange: the "Listed Issuer Financing Exemption". The new exemption is designed to reduce costs for issuers raising smaller amounts of capital through the public markets, and to allow smaller issuers greater access to retail investors, while providing retail investors with a broader choice of investments. The new exemption will be subject to annual caps and will require the filing of a short offering document. Importantly, securities issued under the exemption will be freely tradeable. The new exemption is expected to come into force on 21 November 2022.

OSC Investment Funds and Structured Products Branch release annual survey results

On 9 September 2022, the OSC Investment Funds and Structured Products Branch released the 2020 and 2021 results of its annual survey of Ontario-registered investment fund managers, which collects comprehensive fund-level data from approximately 5,700 investment funds holding at least \$10 million in net assets. The data includes aggregated information on various aspects of investment funds, such as fund sizes, asset class exposure, leverage, ownership, portfolio liquidity, and redemption terms. Interesting trends in the data include:

- i) greater growth was observed in the net asset value of stand-alone prospectus funds as compared to stand-alone exempt funds;
- ii) growth in stand-alone funds was primarily driven by an increase in asset value for holdings of listed

equities as compared to cash, fixed income, and other holdings; and

- iii) prospectus funds saw a 23.3% rise in gross subscriptions in 2021, with more modest growth of around 11% for exempt funds.

CSA publishes proposed access-based model for delivery of financial statements and management reports of fund performance

On 29 September 2022, the CSA published for public comment proposed amendments to National Instrument 81-106 – *Investment Fund Continuous Disclosure* ("**NI 81-106**") and related instruments (the "**Proposed Amendments**") that are designed to provide an "access-based" model for the delivery of annual and interim financial statements and management reports of fund performance (collectively, the "**Designated Documents**") by investment fund reporting issuers ("**IFRIs**" or "**Funds**").

The Proposed Amendments aim to modernize existing delivery practices and reduce the regulatory burden on IFRIs, together with the associated beneficial environmental impacts, without diminishing investor protection.

The proposed amendments would repeal the existing requirements to send Designated Documents, to solicit Annual Instructions or Standing Instructions, as well as the requirement to send Annual Notices, and replace them with requirements to:

- 1) post the Designated Documents on the Fund's designated website, ensuring that the Designated Documents appear in a prominent manner (to a reasonable person) on the designated website;
- 2) include a statement on the Fund's designated website that:
 - a) explains the choices Securityholders have to receive Designated Documents;
 - b) describes how Securityholders may provide the Fund with Standing Instructions to receive either electronic or paper copies of all of the Fund's Designated Documents; and
 - c) explains that the Fund will continue to follow the instructions provided by the Securityholder until they are changed by the Securityholder.

- 3) send paper or electronic copies (as specified by the Securityholder) of the Designated Documents at no cost to Securityholders either upon request from the Securityholder or in accordance with any Standing Instructions provided by them;
- 4) send a Designated Document requested by a Securityholder or pursuant to Standing Instructions provided by the Securityholder by the later of:
 - a) the filing deadline for the Designated Document; or
 - b) 10 calendar days from receipt of the request or instructions in the case of paper copies or 5 calendar days in the case of electronic copies.
- 5) alert investors on the date that a Designated Document is filed on SEDAR by issuing a news release (a copy of which must also be filed on SEDAR and posted on the Fund's designated website) which:
 - a) states (in the title) that the Designated Document is available;
 - b) states that the Designated Document is available on SEDAR and on the Fund's designated website;
 - c) provides the address of the Fund's designated website;
 - d) contains instructions, using the specific wording provided in the Proposed Amendments, as to how Securityholders may obtain paper or electronic copies of the Designated Documents pursuant to a request to the Fund or Standing Instructions; and
 - e) provides the contact information for the manager of the Fund.

For anyone providing comments on the Proposed Amendments, the CSA have also requested feedback on certain specific questions. Written comments relating to the Proposed Amendments and feedback on the specific questions posed in the request for comments must be submitted by no later than December 26, 2022.

Information kindly provided by McMillan LLP in Canada.

Chile



Comisión Clasificadora de Riesgo changes criteria for foreign fund managers

On 19 October 2022, the *Comisión Clasificadora de Riesgo* ("CCR") published a modification to its agreement number 32, which regulates the registration of foreign funds and ETFs, as well as other foreign securities.

The modifications are mostly intended to reflect a change in criteria on the application of the requirements to the manager of the fund. Prior to these modifications, the CCR considered that the manager of a fund (the management company in Luxembourg, the manager in Ireland, the ACD in the UK and the advisor in the US, for example) was the appropriate manager of the fund and the requirements on risk rating, minimum AUM, years of experience and those applicable to the holding company of the manager, were applied based on that entity.

These recent modifications reflect a change in criteria and a distinction between the manager (the management company in Luxembourg, manager in Ireland and ACD in the UK) and a fund's investment manager. Focus has now shifted to the investment manager of a fund, so that the minimum AUM (USD 10 billion) and years of experience (at least 5 years managing third-party assets) are applied to the investment manager, and the group to which it belongs.

Both the fund and its manager (or equivalent entity) must still be regulated, but the relevant country's risk rating must be A- or higher (previously AA- or higher). The exception for a BBB rated country subject to special circumstances evaluated on a case-by-case basis by the CCR, is still in place.

The requirement for minimum risk rating of the country in which the holding company of the fund's manager is domiciled, has been eliminated, but each regulation in which a fund seeking approval and/or its manager (or equivalent entity) is domiciled, must be approved by the CCR. A list of approved regulations can be found at the bottom of each of the CCR's list of approved instruments, available on the CCR's website: www.ccr.cl.

Information kindly provided by Guerrero in Chile.

Asia Pacific

Taiwan



Financial Supervisory Commission announces draft amendment to "Regulations Governing Foreign Bank Branches and Representative Offices"

On 30 September 2022, the Financial Supervisory Commission ("FSC") announced the draft amendments to the Regulations Governing Offshore Funds. The main points are summarised below:

- 1) Master Agent:** To add the restriction that a master agent can represent funds managed by not more than five offshore fund management companies. Where a master agent represent funds managed by four offshore fund management companies or more, additional operating bond will be required. It is also specified that the calculation of the operating bond shall be based on the group enterprise to which the offshore fund management companies belong.
- 2) Sales Agent:** To specify the qualifications for companies that issue shares without par value in accordance with Article 156 of the Company Act to serve as sales agents of offshore funds.
- 3) Management Company:** To amend the no sanction qualification of offshore fund management companies to limit the sanctions on breaches relevant to assets management business.
- 4) Application Documents:** To delete the required documents for sales agents upon the filing for new fund registration and request those to be filed with the Securities Investment Trust & Consulting Association ("SITCA") for review and approval after the new fund registration has been approved.

FSC announces draft amendments to Regulations Governing Offshore Funds

On 30 September 2022, the FSC announced the draft amendments to Regulations Governing Offshore Funds for consultation. Any opinions on the amendments may be presented within 60 days of the announcement. the proposals are summarised below:

- 1)** To add a restriction that a master agent can only represent offshore funds for

public offering and sales managed by up to five offshore fund management companies. Where there are four or more offshore funds management companies, additional amounts of operating bond will be required respectively. The calculation of the operating bond shall be based on the number of group enterprise with which the offshore fund management companies are affiliated.

- 2)** To specify that companies issuing shares without par value to serve as sales agents of offshore funds shall have a net value of no less than NTD 10 per share.
- 3)** For the "no-sanction in the past two years" qualification for offshore fund management companies, the sanction shall be limited to two years in relation to assets management business.
- 4)** To delete the required documents in relation to sales agents upon the filing for new fund registration. The filing for the sales agent is only required to be filed with SITCA after the new fund registration has been approved.

Amendment to Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises Self-Regulations of Information Security of Emerging Technology announced

On 29 September 2022, SITCA announced the amendments to Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises Self-Regulations of Information Security of Emerging Technology, and required all securities investment trust enterprises and Securities Investment Consulting Enterprises to cooperate with the revision of internal control systems or guidelines where necessary. The requirements are as follows:

- 1)** To add the relevant regulations regarding the control of electronic transactions, such as the relevant control measures of the application, delivery, usage, update, and verification of the identity of the electronic transaction; and
- 2)** To add the relevant regulations regarding deepfakes. The company shall enhance the verification when they use the video to verify the identity and is advised to conduct education training periodically.

Information kindly provided by Lexcel Partners in Taiwan.

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:



Lindi Rudman
Legal Director

Dir: 0207 919 0837
Int: +44 20 7919 0837
lindirudman@
eversheds-sutherland.com



Michaela Walker
Partner

Dir: 0207 919 0541
Int: +44 20 7919 0541
michaelawalker@
eversheds-sutherland.com



Ronald Paterson
Partner

Dir: 0207 919 0578
Int: +44 20 7919 0578
ronaldpaterson@
eversheds-sutherland.com

eversheds-sutherland.com

© Eversheds Sutherland 2021. All rights reserved.
Eversheds Sutherland (International) LLP is part of a global legal practice, operating through various separate and distinct legal entities, under Eversheds Sutherland. For a full description of the structure and a list of offices, please visit www.eversheds-sutherland.com.