

International Funds Net
Country updates

April 2022



Europe

European Union



ESMA publishes details of national rules on the cross-border distribution of investment funds

On 28 March 2022 the European Securities and Markets Authority (ESMA) published a document containing details of national rules as required by the EU Cross-Border Distribution of Investment Funds Regulation (Regulation (EU) 2019/1156) (CBDF Regulation). Summaries of the applicable national laws, regulations and administrative provisions governing marketing requirements for AIFs and UCITS per country are available in the ESMA publication:

[esma34-45-1576 - publication on cross-border distribution of funds.pdf \(europa.eu\)](https://esma.europa.eu/press-material/press-news/esma-news/esma34-45-1576-publication-on-cross-border-distribution-of-funds.pdf)

Croatia



New Ordinance on the issuance of authorisations for establishing and managing alternative investment funds

As part of the implementation of the amendments to the Act on Alternative Investment Funds (AIF Act), that came into force on 21 October 2021, the Croatian Financial Services Supervisory Agency adopted a new Ordinance on the Issuance of Authorisations for Establishing and Managing Alternative Investment Funds (Ordinance). The Ordinance came into force on 11 March 2022. The changes that were introduced by the Ordinance are aimed to reflect the changes in the AIF Act. The procedure for acquiring the authorisations has not substantially changed as the changes to the old Ordinance are mostly technical.

North Macedonia



New rulebook on exchange of information

On 4 March 2022, the Securities and Exchange Commission of the Republic of North Macedonia, adopted a rulebook which regulates the content of the agreement for exchange of information and documents between:

- the companies for management of master fund and feeder fund, i.e. the internal rules of the company

for management of open and closed investment funds of master fund and feeder fund;

- the depository banks of master fund and feeder fund; and
- the certified auditors of master fund and feeder fund.

Furthermore, the rulebook introduces harmonisation with Articles 8 to 19, 24, 25, 27 and 28 of the Commission Directive 2010/44/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure.

UK overseas territories

Cayman Islands



CIMA releases notice relating to an updated Fund Annual Return form for private funds

On 16 February 2022, the Cayman Islands Monetary Authority (CIMA) issued a notice advising that an updated version of the Fund Annual Return (FAR) form for all private funds registered under the Private Funds Act (Revised) would be released. The updated version combines the existing Private Fund FAR form and the Related Fund Entity form (RFE form). The updated FAR form should be utilised for all Private Funds with a financial year-end of 31 December 2021 and beyond. The earlier version of the FAR form and separate RFE form will resultantly only be required for financial year-end filings up to 30 November 2021.

The updated Private Fund FAR form will be accessible via CIMA's Regulatory Enhanced Electronic Forms Submission portal. An updated completion guide will also be posted to CIMA's website once the updated Private Fund FAR form has been released.

CIMA updates its policy for private fund audit exemptions

On 12 March 2022 CIMA issued a notice clarifying that the Regulatory Policy Exemption from Audit Requirement for a Private Fund has been updated such that Private Funds that have not yet received capital contributions are not subject to the requirement to file audited financial statements with CIMA and therefore there is

no need to apply for an audit waiver in such scenarios. Instead, the Private Fund is required to simply submit a declaration to CIMA stating that the Private Fund has not yet received any capital contributions.

Americas

Canada



Canadian securities regulators to introduce temporary exemptions to facilitate implementation of the OEO trailer ban

On 14 March 2022, the Canadian Securities Administrators (CSA) announced temporary exemptions published by the Ontario Securities Commission (OSC) aiming to facilitate implementation of the 'OEO Trailer Ban' on the payment of trailing commissions by fund organizations to dealers who do not make a suitability determination, such as order-execution-only (OEO) dealers. The OSC's temporary exemptions come into force on 1 June 2022, the effective date of the OEO Trailer Ban. The remaining Canadian jurisdictions have published or are expected to publish similar exemptions.

Asia Pacific

Hong Kong



Upcoming deadlines for compliance with the SFC's climate-related risks requirement

Compliance with the Securities and Futures Commission's (SFC) new climate-related risks requirements will soon be required by Type 9 licensed corporations (LCs) with investment management discretion in respect of collective investment schemes (funds). According to the SFC two-tier approach, all in-scope LCs must comply with the baseline requirements. In-scope LCs that qualify as large fund managers (i.e. LCs with funds under discretionary management equal to or in excess of HK\$8 billion) are required to comply with enhanced standards in addition to the baseline requirements.

Large fund managers must comply with the baseline requirements by 20 August 2022 and they have until 20 November 2022 to comply with the enhanced standards. Other in-scope LCs must comply with the baseline requirements by 20 November 2022.

Taiwan



The FSC requires the securities and futures Institutes to strengthen protection

On 8 April 2022, under the supervision of the Financial Supervisory Commission (FSC), the Taiwan Securities Association, Securities Investment Trust & Consulting Association, and National Futures Association (collectively referred to as Securities and Futures Institutes) declared the

- "Self-Discipline Rules of Financial Services to Elderly Customers by Securities Firms";
- "Assessment Criteria for the Suitability of Financial Products or Services to Elderly Financial Consumers by the Securities Investment Trust & Consulting Enterprises"; and
- "Assessment Criteria for the Suitability of Financial Products or Services to Elderly Customers by the Futures Commission Merchants"; and amended
- "Self-Discipline Rules of the Management of Account Opening and Credit Operations and Financial Services to Elderly Customers by Futures Commission Merchants"

respectively for the securities and futures institutes to reflect in their internal control systems, so as to enhance protection for elderly financial consumers.

In accordance with Article 2 of the Senior Citizens Welfare Act, the subject of the self-discipline rules is financial consumers of age 65 and above. The self-discipline rules shall be effective from 1 October 2022

Middle East and Africa

Philippines



Amendments to the Foreign Investment Act

On 2 March 2022, President of the Philippines Rodrigo Duterte signed into law Republic Act No. 11647 (R.A. 11647) which further amends Republic Act No. 7042, otherwise known as

Foreign Investments Act (FIA). The core amendments include:

- the creation of an Inter-Agency Investment Promotion Coordination Committee;
- the introduction of the Foreign Investment Promotion and Marketing Plan;
- reserving micro and small domestic market enterprises to Philippine nationals;
- review of Foreign Investments Upon Order of the Philippine President;
- tax compliance by export enterprises: the requirement that export enterprises register and comply with the requirements of Title XIII of the National Internal Revenue Code (NIRC); and
- 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:



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.