



# UPDATE ON RECENT DEVELOPMENTS IN UCITS DISTRIBUTION

24 June 2024



# The speakers



Alexandra Leininger

Arendt Regulatory & Consulting



Pierre-Yves Mauchard

Arendt & Medernach



Florence Stainier

Arendt & Medernach



Emma Garnham

Macfarlanes

## TABLE OF CONTENTS



B. OVERSEAS FUND REGIME

C. MARKETING COMMUNICATIONS VS
FINANCIAL PROMOTION REGIME

D. OTHER RECENT DEVELOPMENTS
INCLUDING TOKENISATION



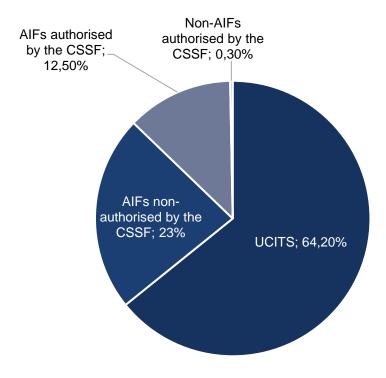




## Market Update



#### UCITS: STILL #1 VEHICLE IN LUXEMBOURG



Consolidation of UCITS still ongoing 1596 UCITS 4291 bn of net assets

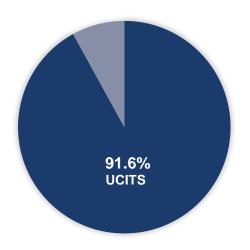


## Market Update

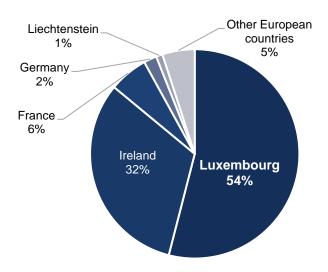


#### UCITS: STILL #1 VEHICLE IN LUXEMBOURG

# UCITS dominance of Funds distributed on a cross-border basis



## Domicile breakdown of cross-border UCITS



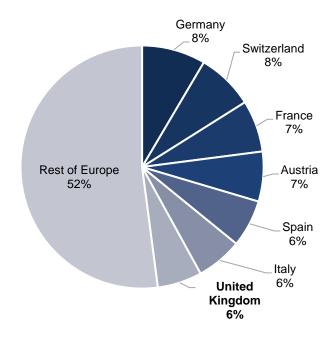


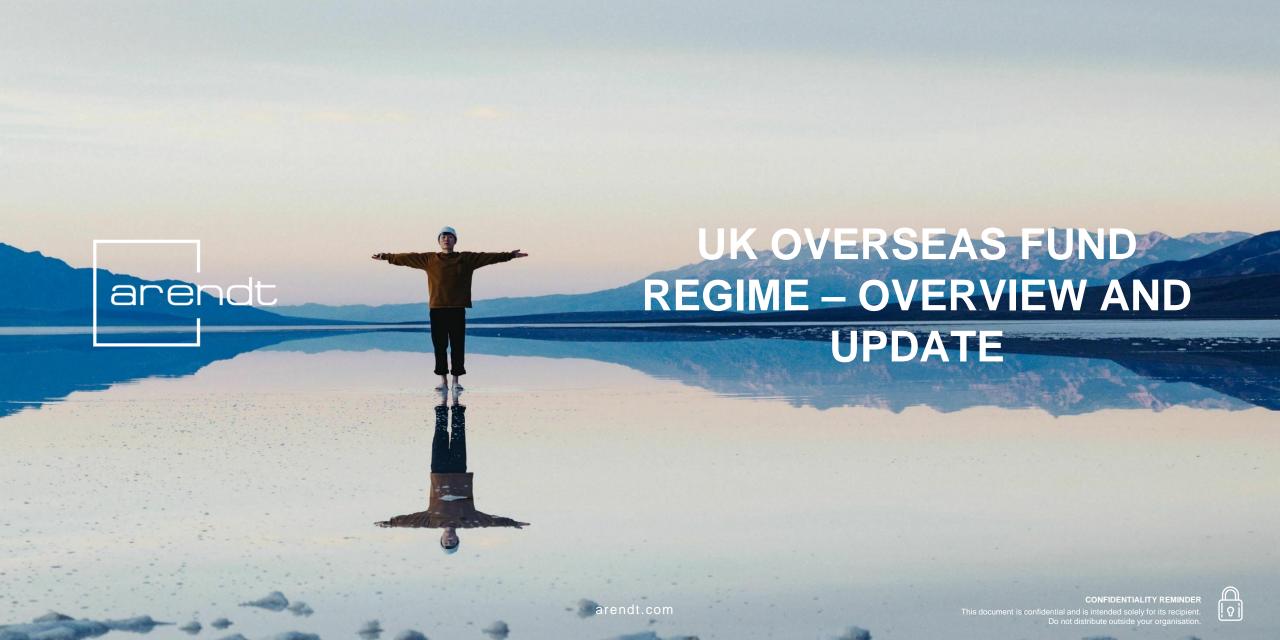
## Market Update



#### **EVOLUTION OF CROSS-BORDER DISTRIBUTION**

Top destinations of Luxembourg domiciled Funds Registered in:	
Germany	6,385
Switzerland	5,694
France	5,184
Austria	4,995
Spain	4,730
Italy	4,614
United Kingdom	4,450
Total	68,842







# Overseas Fund Regime (OFR)

As of today



Consultation presents the process for OF to follow to access the UK market.

Feb 22

OFR entry into force

foreign jurisdictions having a regulatory regime equivalent to the UK asset management framework is still under discussion at HM Treasury

Jan 24

UK government has found the EEA Member States to be equivalent under the OFR It explains how the OFR is intended to be opened to EEA funds authorised under the UCITS

Directive









It allows UCITS to be considered as equivalent to UK schemes by the FCA and hence access the UK market after Brexit

OFR not ready to use at that time, pending further clarifications on the underlying processes

and on procedures applicable, including the equivalence status determination.

4 Dec 23

Launch of OFR implementing measures consultation by FCA until 12 Feb 24 except for MMF, not in the scope of the UK government's assessment

May 24

Roadmap published jointly by the FCA and the HM Treasury



# Overseas Fund Regime (OFR)

# Roadmap – opening of the OFR gates



#### Sep 24

non-TMPR UCITS will be able to apply for recognition under the OFR

#### Oct 24

TMPR stand-alone UCITS will be able to apply for recognition under the OFR

#### **Nov 24**

TMPR umbrella UCITS will be able to apply for recognition under the OFR

Landing slots will be allocated to management companies (usually by alphabetical order of name) for three months.

The management company will be invited to apply for OFR recognition for all its TMPR funds (except money-market funds). This application can be made at any point during the landing slot, but no later

Funds that miss their allocated landing slots will be removed from the TMPR, meaning they will cease to be a recognised scheme and can no longer be promoted to retail investors (until they make a successful application under the OFR and become recognised again)

The OFR application will be filed on the FCA's Connect system and the <u>FCA will then decide within two months</u> whether to recognise the scheme or notify the applicant that the FCA proposes to refuse recognition.



# Overseas Fund Regime (OFR)

## Roadmap



#### Roadmap:

A policy statement setting out the feedback received to the consultation on OFR implementing measures, to be published

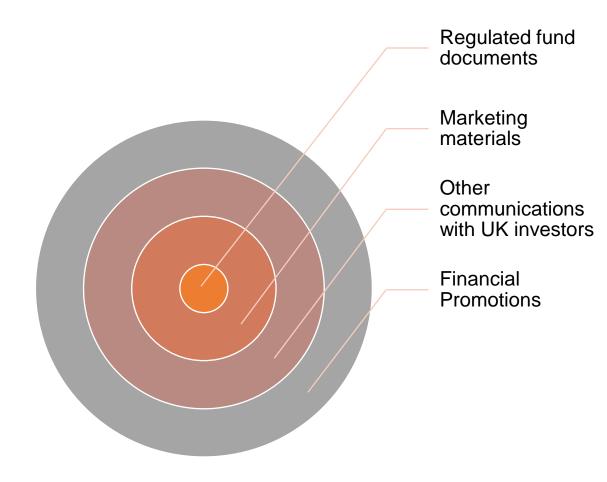
Finalised rules and guidance to come into effect most likely in July 2024 Government consultation on extending the application of the UK SDR and labelling regime to OFR funds (likely to run from Q3 until Q4 2024) The UK
government and the
FCA are reforming
the UK's point-of
sale disclosure
requirements for
retail-facing
financial services
products.

The UK is currently working on a new legislation that is expected to apply to overseas recognised funds from 1 January 2027, at the latest



# MARKETING COMMUNICATIONS VS FINANCIAL PROMOTION REGIME





#### **Financial Promotions can be made:**

- By an FCA-authorised firm to UK retail investors
- By a non-FCA authorised firm (e.g. an offshore entity) if a relevant exemption applies to the promotion, under the Financial Promotions Order

#### **Common exemptions for overseas funds:**

- Promotions to investment professionals
- Communications that are required or authorised by enactments (covers prospectus and KID/KIID)
- Promotions <u>by a ManCo (only)</u> once the scheme is recognised to existing and prospective investors in that scheme (incl. retail) <u>about that recognised scheme</u> (only no cross-selling)

#### Be aware of:

 Who is in the distribution chain: the rules apply to communicators of financial promotions too

arendt.com



# Funds marketing communications - CSSF Scrutiny



#### CSSF general findings and observations 2021-2023 on marketing communications

# Main CSSF's comments and further expectations on the content of marketing communications

- Identifying marketing communications by means of a prominent disclosure (labelling)
- Ensure data disclosed are consistent with the funds' documents and avoiding difficult-to-read communications (e.g. notes, disclaimers...)
- Clearly identify the type of investor(s) targeted by the marketing communications
- Use of hyperlinks should be limited (particularly when covering sustainability-related aspects) and should refer to the exact page where information can be found (not the homepage)

- Where the marketing communication displays a label, certification or rating, referring to the year it was awarded and naming the awarding entity, with at least a hyperlink to a website where an investor can find further information
- When disclosing costs associated with the investment, mentioning the periodicity of the costs as well as prominent indication that not all costs are presented (and that further information can be found in the prospectus or equivalent)
- Good balance between ESG and other type of information





#### **Evolution & Outlook**



AIFMD 2 / UCITS VI

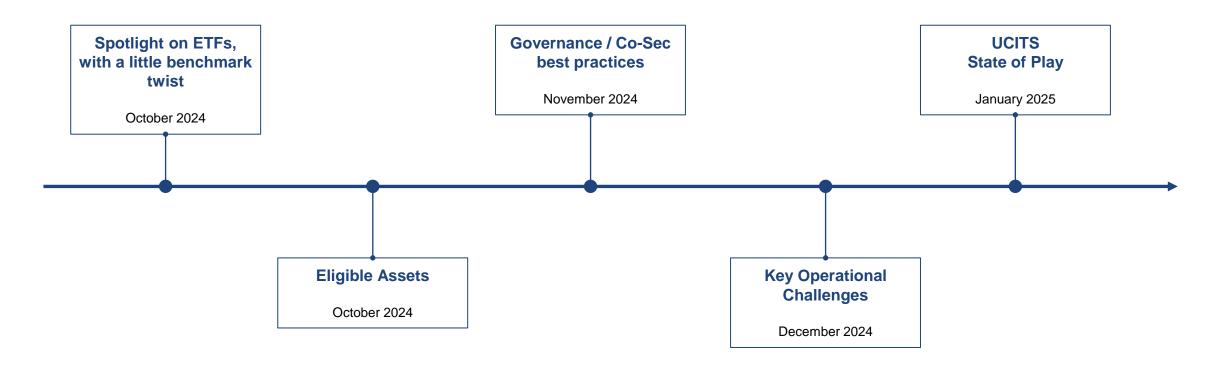
Digitalisation and Tokenisation

EU Retail Investment Strategy

**Notification Forms** 



## **Upcoming UCITS Webinars**





## Your contacts



Alexandra Leininger

Arendt Regulatory & Consulting



Pierre-Yves Mauchard

Arendt & Medernach



Florence Stainier

Arendt & Medernach



Important Notice and Disclaimer: Whilst a best efforts approach has been taken to ensure the accuracy of the information provided in this presentation, as at the date thereof, this information is only designed to provide with summarised, and therefore non complete, information regarding the topics covered. As such, this presentation does not constitute legal advice, it does not substitute for the consultation with legal counsel required prior to any undertakings and it should not be understood as investment guidelines. If you would like to receive a legal advice on any of the issues raised in this presentation, please contact us.