



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Lord Sharkey
House of Lords
London
SW1A 0PW

16 February 2024

Dear John,

FOS AND FSCS PROTECTION FOR FUNDS RECOGNISED UNDER THE OVERSEAS FUNDS REGIME

Thank you for your contributions during the recent Parliamentary debate on the Overseas Funds Regime (OFR) and recognised sub-funds Statutory Instrument. You asked about the Government's decision not to extend protection under the Financial Ombudsman Service (FOS) and Financial Services Compensation Schemes (FSCS), following the 2020 consultation on the creation of the OFR.

As the summary of responses to this consultation set out, the majority of respondents were not in favour expanding the FOS to cover funds recognised under the OFR. This was on the basis that it was highly unlikely for investors to need to escalate complaints about the operations of overseas recognised funds to an alternative dispute resolution facility.

Importantly, for existing overseas recognised funds, the vast majority of complaints relate to the distribution and sale of these products. This is almost always undertaken by UK intermediaries, which do fall within the scope of the FOS.

Additionally, the summary of responses to the Government's consultation supported the view that it would not be necessary to extend the FSCS to overseas recognised funds, as the assets of EU retail funds (namely UCITS funds) must be held by an independent depository. This means that if a fund's management company fails, its assets are segregated and protected. Furthermore, despite the prevalence of EU funds within the UK, respondents noted that they were not aware of any examples of loss or harm to UK investors in overseas recognised funds, as a result of lack of access to the FSCS. The approach represents a continuation of the status quo for EU funds with regards to FOS and FSCS.

Overall, respondents suggested that if the FOS and FSCS were not expanded to include schemes recognised under the OFR, investors should be informed of this through disclosure. In December last year, the Financial Conduct Authority issued a consultation on requirements for all funds recognised under the OFR. This included a requirement for funds to disclose where they are not covered by FOS and FSCS, through their financial promotions, their fund prospectus and through point of sale disclosure. This consultation closed 12th February.

Thank you again for your contributions during the debate. I am copying this letter to all those that contributed during the debate and a copy will be deposited in the Library of the House.

Yours,
Charlotte

BARONESS VERE OF NORBITON