

# Consultation: Amendments to Collective Investment Undertakings (CIU) Module

Comments and Feedback

September 2022

General Comments:		
Comments	REF	CBB Response
<p><b>A Bank</b> Are there any applicable fees for Overseas Domiciled CIUs e.g. CIU-2.13 states the applicable fees for PIUs?</p>	GR1	No application fees for overseas domiciled CIUs.
<p><b>A Bank</b> With respect to the notification process relating to the Overseas Domiciled exempt CIUs, if possible, can we mention the name of form from Part B, applicable for notification?</p>	GR2	Form 2 is relevant for all exempt CIUs. Licensees must clarify such issues with their supervisory point of contact.
<p><b>A Bank</b> What is the list of documentations required for Overseas Domiciled CIUs notification?</p>	GR3	Please refer to Form 2 in Part B of the CBB Rulebook – Volume 7 for details on supporting documents.
<p><b>A Bank</b> With the recent amendments in CIU module, now Retail funds are to be authorized and exempt funds are to be notified.</p> <p>Can we take an ODC retail fund to notification channel (similar to exempt CIUs) rather authorization, if such retail fund is only meaning to market to Accredited Investors and not to the general retail investors. There have been requests from Accredited Investors for a long time who are willing to invest in Retail global USD funds, but due to time taking process of authorization/registration, it restricts business team to accept all those requests and as a result such investors goes to other institutions/platforms, which may not necessary in Bahrain. Benefit of taking Retail fund to notification channel is that it can be market on 6<sup>th</sup> day as notification has 5-day turnaround time. This quicker process will help in bringing more funds and investment will be made from Bahrain based institutions.</p>	GR4	The exempt CIUs notification regime is for CIUs targeted at accredited investors or above. Also refer to the definition of Overseas domiciled exempt CIU(s). The title of the fund or the fact that they are sold to retail investors in other markets is not relevant.

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Specific Comments:			
Reference to the draft Directive:	Comments	REF	CBB Response
CIU-A.1.4 (h) Overseas domiciled exchange traded funds which are listed securities offered through brokers /broker platforms	<b>A Bank</b> CBB to confirm if foreign listed ETFs will be treated as securities regardless of whether or not they are traded on a brokerage platform?	SP1	The rule was amended to delete “offered through brokers /broker platforms”; hence all overseas domiciled ETFs are excluded from the scope of this module.
CIU-A.2.1 The operators of CIUs, or where relevant, the placement agents offering CIUs in the Kingdom of Bahrain must ensure the following: (a) The CIU is offered by qualified individuals who possess the ability to explain the nature, structure, investment objectives and the risks associated with investing in the CIU to investors in a manner that is clear, fair and not misleading; (b) The investor’s profile and suitability assessments have been undertaken in determining if he is eligible to invest in the CIU being offered; (c) The investors submit a declaration stating that they have read the offering documents, understand the investment objectives and are familiar with associated risks; (d) Safeguards are established for the CIU participants with regards to governance, investment management, custody arrangements, administration and disclosures;	<b>A Bank</b> (d) It is unclear what is the expectation with regards to governance, and disclosures? If this can please be clarified in the final draft.	SP2	For Bahrain domiciled CIUs, relevant requirements for governance and disclosures are included in the CIU Module; for overseas domiciled CIUs licensees should use their judgment in conducting their due diligence of the overall governance structure prevailing at the CIU operator.
	<b>A Bank</b> We would like to recommend to incorporate CIU A.2.1 requirements (points a-h) in Form 2 Exempt CIU notification and Form 1 Retail CIU authorization form. This will provide a self-confirmation of compliance with such points. In a recent CIU notification form submission, we have received query from CBB to provide a confirmation on such points. If these points	SP3	The forms do not need to include confirmations of rules. Forms to be reviewed

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<p>(e) The investors have access to the periodic reports specified in the offering documents in a timely manner;</p> <p>(f) Any client complaints and/or enquiries from investors are addressed including the provision of information to investors as may reasonably be required in accordance with the terms of the offering memorandum;</p> <p>(g) They comply at all times with the laws of the Kingdom of Bahrain and the regulations of the CBB, including those related to AML/CFT;</p> <p>(h) Licensees offering CIUs in other jurisdictions must ensure full compliance with all legal and regulatory requirements in such jurisdictions.</p>	<p>are incorporated in form (1 &amp; 2) itself, FIs may provide a confirmation at time of submitting the application.</p>		
<p>CIU-A.2.2 Real Estate Investment Trusts (REITs), Venture Capital CIUs, Hedge Funds, and Money Market Funds and Exchange Traded Funds (ETFs), other than those excluded from the scope of this Module (See CIU-A.1.4) must be in accordance with the relevant CIU's investment objectives and they reflect the substance of the specialised nature of the CIU.</p>	<p><b>A Bank</b> Noting Rule CIU-1.5.19, will overseas domicile ETFs be treated as securities (as against CIU/Fund) from a Bahrain law perspective?</p>	<p>SP4</p>	<p>CBB has the right to take enforcement actions for violation of its rules. However, the intention of this addition is to ensure that licensees conduct their legal/regulatory due diligence when offering CIUs in other jurisdictions as a breach of the relevant requirements will expose the licensee to reputational risk.</p> <p>SP5</p> <p>Securities definition also includes units in all types of CIUs. The purpose of the amendments is to clarify that:</p> <ul style="list-style-type: none"> <li>• Local ETFs will need to go through the normal CIU establishment process before being listed.</li> <li>• Overseas ETFs are not subject to the CBB's CIU requirements.</li> </ul> <p>Paragraph CIU-A.1.4 will also be amended as follows:</p>

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			“The following are excluded from the definition of CIUs and the scope of this Module”
CIU-2.1.7 The placement agent is required to notify the CBB if it ceases to offer any overseas domiciled PIUs. The notification must include the name of the PIU, the date on which it ceased offering the PIU to investors and a confirmation that there are no outstanding obligations to CIU participants.	<b>A Bank</b> We suggest that the timeline to notify the CBB may please be defined in the final draft.	SP6	A deadline of 10 working days from the date when all obligations to CIU participants are discharged will be introduced.
CIU-3.1.6 The placement agent is required to notify the CBB if it ceases to offer any overseas domiciled CIUs. The notification must include the name of the CIU, the date on which it ceased offering the CIU to investors and a confirmation that there are no outstanding obligations to CIU participants.	<b>A Bank</b> We suggest that the timeline to notify the CBB may please be defined in the final draft.	SP7	
CIU-2.1.7 & CIU-3.1.6	<b>A Bank</b> The notification must also include an assurance that the placement agent has not in turn appointed a sub-placement agent or that any such arrangement has been terminated.	SP8	Appointment of a sub-placement agent does not absolve the placement agent from the responsibilities of the offering the CIU; hence the rule is only applicable when the offering of the CIU has ceased completely, regardless whether a sub-placement agent was appointed or not.
CIU-3.1.7 The placement agent should establish policies and processes to ensure that clients are made aware of risks of investing in overseas domiciled exempt CIUs and the risks of investing in CIUs that are not regulated in their home jurisdictions. The placement agent should	<b>A Bank</b> The Banks takes note and will updates its existing application form and the process document to embed the requirement once the final draft is issued.	SP9	Noted

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also ensure that the policies and procedures require such CIUs to be offered to only accredited investors.	<b>A Bank</b> Why only exempt CIU? The risk which this provision intends to address is equally applicable to all other categories of overseas domicile CIUs.	SP10	Exempt CIUs are riskier and hence they been mentioned in the guidance.
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