



September 2018

Briefing for UCITS in Germany

Performance Fee Structures-

BAFIN has recently indicated to industry and other EU regulators that it will require foreign UCITS registered to distribute in Germany to be compliant with the application by BAFIN of the IOSCO principles on performance fees. Further, BAFIN indicated that any non-compliant funds may ultimately be restricted from distribution into Germany. To date there has been no public BaFin release on the matter.

These criteria for foreign UCITS are already imposed by BAFIN on German public investment funds.

BaFin has indicated that it will require foreign UCITS to comply with the following in respect of their performance fees:

- ▣ The calculation period for determination of a performance fee must be at least one year.
- ▣ The performance fee calculation method must provide for a loss carry forward / high water mark covering at least the previous five years.
- ▣ There must be a double cap on the performance fee charged to the fund:
 - ▣ The amount must be limited in relation to the total (out) performance (e.g. 10% of the outperformance).
 - ▣ The amount must also be limited in relation to the total assets of the fund (e.g. limited to 1% of the NAV).

If you have any questions in relation to the above please contact a member of the Foreign Registrations Team or your usual contact at Dillon Eustace.

For further information on any of the issues discussed in this article please contact:



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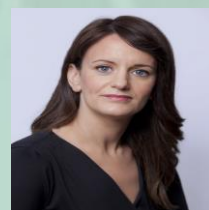
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