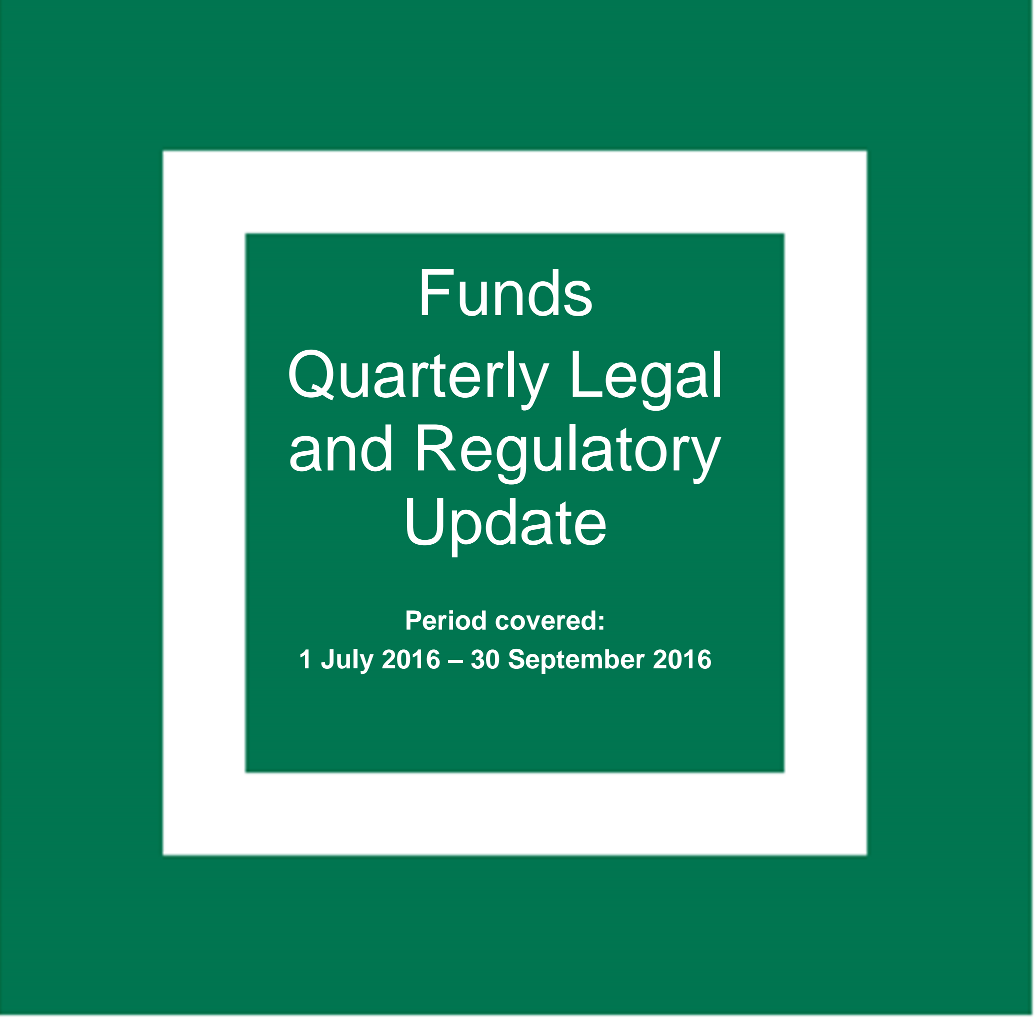

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UCITS

(i) Central Bank issues Guidance Note on Regulatory Reporting of Irish Investment Funds

On 12 July 2016, the Central Bank published version 3.1 of the guidance note on the regulatory reporting requirements of Irish authorised investment funds (the "**Guidance Note**"). The Guidance Note, first published on 17 May 2016, seeks to provide information and direction to investment funds and their service providers regarding the extension of the Central Bank's Online Reporting System (**"ONR System"**). This includes the board of directors, management companies/AIF management companies and general partners of an investment fund.

The Guidance Note sets out the conditions for returns to be carried out by named parties in both UCITS and Non-UCITS. The Guidance Note is also applicable to depositaries and independent statutory auditors reporting on behalf of investment funds. A return generally involves the user completing a Return Form (questionnaire) and attaching supporting document(s). The specifics of each Return Form and required supporting document(s) are outlined within the Guidance Note.

A full copy of the Guidance Note can be found at:

http://www.centralbank.ie/regulation/industry-sectors/funds/Documents/Guidance%20Note%20Regulatory%20Reporting%20Vol%203.1%20July%202016.pdf

(ii) ESMA updates Q&A on application of UCITS Directive

On 19 July 2016, ESMA published an updated version of its questions and answers paper on the application of the UCITS Directive (2009/65/EC), as amended by UCITS V (2014/91/EU) (the "**Q&A**"). The aim of the Q&A is to promote common supervisory approaches and practices in the application of the UCITS Directive and its implementing measures.

The Q&A confirms that UCITS management companies cannot rely on a valuation provided by the central counterparty ("**CCP**") in respect of over-the-counter ("**OTC**") financial derivative transactions that are centrally cleared and subject to the reporting obligation under the European Market Infrastructure Regulation (Regulation (EU) 648/2012) ("**EMIR**").

The UCITS framework requires UCITS management companies to have processes in place to ensure the accurate and independent verification of the value of OTC financial derivative transactions, even where they are centrally cleared. The Q&A further clarifies

that the valuation provided by the CCP can only serve as a point of reference for the verification performed by the UCITS management company.

The Q&A may be accessed via the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1135_qa_ucits_directive_july_2016.pdf

(iii) Implementing Regulation laying down ITS with regard to standard procedures and forms for submitting information in accordance with the UCITS Directive published in the Official Journal of the EU

On 26 July 2016, Commission Implementing Regulation (EU) 2016/1212 laying down implementing technical standards ("**ITS**") for the standard procedures and forms for national competent authorities ("**NCAs**") to use when reporting on penalties and measures to ESMA (the "**Implementing Regulation**") was published in the Official Journal of the EU.

NCAs are required to provide ESMA with the information referred to in Article 99e of UCITS V by completing the form set out in Annex I of the Implementing Regulation. That information shall refer to all the penalties and measures imposed during the previous calendar year.

The Implementing Regulation entered into force on 15 August 2016.

A copy of the Implementing Regulation is available at the following link:

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1212&from=EN

(iv) Central Bank publishes updated version of UCITS Q&A

On 12 September 2016, the Central Bank published the 14th edition of its UCITS questions and answers document (the "**Q&A**"). The Q&A sets out answers to queries likely to arise in relation to UCITS. The questions added to the Q&A relate to the operation of umbrella cash accounts and provide the following guidance:

- The guidance issued by the Central Bank in March entitled "Umbrella funds-cash accounts holding subscription, redemption and dividend monies" does not apply to a cash account established as a segregated account in respect of one sub-fund of an umbrella fund;
- Multiple "umbrella cash accounts" may be operated by an umbrella fund. All such accounts must comply with the Central Bank guidance; and
- It is not possible to operate an umbrella cash account for more than one umbrella fund.

The updated version of the Q&A is available at the following link:

http://www.centralbank.ie/regulation/marketsupdate/Documents/160912_UCITS%20QA%20NO%2014%20FINAL_NJ.pdf

AIFMD

(i) ESMA publish call for evidence on asset segregation and custody services under AIFMD and UCITS V

On 15 July 2016, ESMA published a call for evidence on asset segregation and custody services under the Alternative Investment Fund Managers Directive (2011/61/EU) ("**AIFMD**") and UCITS V (the "**Consultation**").

ESMA previously published a consultation paper on asset segregation under the AIFMD in December 2014. However, as the majority of respondents strongly objected to the two options on which ESMA consulted on, and due to the introduction of asset segregation requirements under UCITS V (which are broadly aligned to AIFMD), ESMA decided to carry out a further consultation aimed at:

- Gathering further evidence on the arguments set out by the majority of respondents to the December 2014 consultation; and
- Broadening the scope of this work stream to cover also the asset segregation rules under UCITS V, as well as any residual uncertainty on how the depositary delegation rules should apply to central securities depositaries.

The Consultation identifies a number of areas on which further stakeholder input is needed. These are as follows:

- Mapping of asset segregation models;
- Understanding how investor protection in the event of insolvency would be ensured under the various models;
- Understanding the issues linked to complexity and operational costs that arise from the current legislative framework;
- Understanding the issues linked to collateral management/prime brokerage;
- Understanding the issues linked to the T2S system;
- Understanding the impact of segregation requirements on 3rd countries;
- Gathering views on the optimal asset segregation regime for achieving a strong level of investor protection without imposing unnecessary requirements; and

- Gathering views on any uncertainties that could remain on how the delegation rules should apply to central securities depositaries.

The Consultation closed on 23 September 2016 and on 27 September 2016, ESMA published the responses it received to the Consultation. ESMA will consider the feedback received with the aim of finalising its work on asset segregation by the end of 2016.

A copy of the Consultation is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1137_call_for_evidence_asset_segregation.pdf

Copies of the responses received to the Consultation may be accessed via the following link:

https://www.esma.europa.eu/press-news/consultations/call-evidence-asset-segregation#TODO

(ii) ESMA publishes advice on the extension of the AIFMD passport to 12 non-EU countries

On 18 July 2016, ESMA published its advice to the European Parliament, the Council of the EU and the European Commission in relation to the application of the AIFMD passport to non-EU Alternative Investment Fund Managers ("**AIFMs**") and Alternative Investment Funds ("**AIFs**") in twelve non-EU countries (the "**Paper**").

The Paper relates to the possible extension of the AIFMD passport to non-EU AIFMs and AIFs which would enable them to manage and market funds throughout the EU. The twelve countries considered in the Paper are Australia, Bermuda, Canada, Cayman Islands, Guernsey, Hong Kong, Isle of Man, Japan, Jersey, Switzerland, Singapore and the United States.

For each country, ESMA assessed whether there were significant obstacles regarding investor protection, competition, market disruption and the monitoring of systematic risk which would impede the application of the AIFMD passport.

A summary of the Paper's findings is outlined below:

- **Canada, Guernsey, Japan, Jersey and Switzerland** – the Paper found no significant obstacles that would impede the application of the AIFMD passport to these countries;

- **Hong Kong and Singapore** – ESMA found no significant obstacles that would impede the application of the AIFMD passport to AIFs in Hong Kong and Singapore. However, ESMA notes that both Hong Kong and Singapore operate regimes that facilitate the access of UCITS from only certain EU Member States to retail investors in their territories;

- **Australia** – the Paper concluded that there are no significant obstacles regarding market disruption and competition impeding the application of the AIFMD passport to Australia, provided the Australian Securities and Investment Committee extends the "class order relief' to all EU Member States;

- **United States** – the Paper found that there are no significant obstacles regarding investor protection and the monitoring of systemic risk which would impede the application of the AIFMD passport to the United States.

  With regard to the competition and market disruption criteria, the Paper concludes that there are no significant obstacles for funds marketed by managers to professional investors which do not involve any public offering. However, in the case of funds marketed by managers to professional investors which do involve a public offering, ESMA points out that there is a risk of an un-level playing field between EU and non-EU AIFMs. The market access conditions which would apply to these US funds in the EU under an AIFMD passport would be different from, and potentially less onerous than, the market access conditions applicable to EU funds in the US and marketed by managers involving a public offering. ESMA suggests, therefore, that the EU institutions consider options to mitigate this risk;

- **Bermuda and the Cayman Islands** – ESMA was unable to give definitive advice with respect to the criteria on investor protection and effectiveness of enforcement since both countries are in the process of implementing new regulatory regimes; and

- **Isle of Man** – ESMA concludes that in the absence of an AIFMD-like regime in the Isle of Man it is difficult to assess whether the investor protection criterion is met.

The Paper is currently being considered by the European Parliament, the Council of the EU and the European Commission.

A copy of the Paper is available at the following link:

https://www.esma.europa.eu/press-news/esma-news/esma-advises-extension-funds-passport-12-non-eu-countries

(iii) ESMA updates Q&A on application of AIFMD

On 19 July 2016, ESMA published an updated version of its questions and answers paper on the application of the AIFMD (the "**Q&A**"). The purpose of the Q&A is to promote common supervisory approaches and practices in the application of the AIFMD and its implementing measures.

The Q&A includes one new question and answer relating to the impact of EMIR on the AIFMD framework, regarding the valuation of centrally cleared OTC derivatives by AIFMs.

The Q&A confirms that AIFMs cannot rely on a valuation provided by the CCP in respect of OTC financial derivative transactions that are centrally cleared and subject to the reporting obligation under EMIR.

The AIFMD framework requires AIFMs to have processes in place to ensure the accurate and independent verification of the value of OTC financial derivative transactions, even where they are centrally cleared. The Q&A further clarifies that the valuation provided by the CCP can only serve as a point of reference for the verification performed by the AIFM.

The Q&A may be accessed via the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1136_qa_aifmd_july_2016.pdf

(iv) Central Bank publishes updated version of AIFMD Q&A

On 12 September 2016, the Central Bank published the 14th edition of its AIFMD questions and answers document (the "**Q&A**"). The Q&A sets out answers to queries likely to arise in relation to AIFMD. The questions added to the Q&A relate to the operation of umbrella cash accounts and provide the following guidance:

- The guidance issued by the Central Bank in March entitled "Umbrella funds-cash accounts holding subscription, redemption and dividend monies" does not apply to a cash account established as a segregated account in respect of one sub-fund of an umbrella fund;
- Multiple "umbrella cash accounts" may be operated by an umbrella fund. All such accounts must comply with the Central Bank guidance; and
- It is not possible to operate an umbrella cash account for more than one umbrella fund.

The updated version of the Q&A is available at the following link:

https://www.centralbank.ie/regulation/marketsupdate/Documents/160912_EDITION%2020%20AIFMD%20QA%20FINAL_NJ.pdf

European Venture Capital Funds ("EuVECA") & European Social Entrepreneurship Funds ("EuSEF")

(i) European Commission publishes legislative proposal amending EuVECA Regulation and EuSEF Regulation

On 14 July 2016, the European Commission published a legislative proposal for a regulation amending the EuVECA Regulation and the EuSEF Regulation (the "**Proposal**"). The Proposal forms part of the European Commission's initiative to establish a capital markets union and follows the European Commission's September 2015 consultation paper on its review of the EuVECA Regulation and the EuSEF Regulation.

The Proposal contains amendments to the EuVECA Regulation and the EuSEF Regulation that will, among other things:

- Enable managers of collective investment undertakings authorised under the AIFMD that manage portfolios of qualifying venture capital and qualifying entrepreneurship funds to use the EuVECA and EuSEF designations respectively in relation to the marketing of those funds in the EU;

- Expand the range of qualifying investments permitted under the EuVECA Regulation to allow investment in small mid-caps and small and medium-sized enterprises (“**SMEs**”) listed on SME growth markets; and

- Prohibit competent authorities of host Member States from imposing fees and other charges relating to cross-border marketing of EuVECA and EuSEF funds.

The full text of the Proposal is available at the following link:

http://ec.europa.eu/finance/investment/docs/venture_capital/160714-proposal_en.pdf

The European Commission also published a Fact Sheet, an Impact Assessment and a Summary of the impact assessment accompanying the Proposal.

(ii) ECB publishes opinion on proposed Regulation amending EuVECA Regulation and EuSEF Regulation

On 13 September 2016, the European Central Bank (“**ECB**”) published an opinion (the **“Opinion”**) on the proposed Regulation amending EuVECA Regulation and the EuSEF Regulation (the **“proposed Regulation”**). The Council of the EU had requested the ECB's opinion in August 2016.

In the Opinion, the ECB supports the aims of the proposed Regulation, which it sees as a key part of the capital markets union action plan. The ECB's comments include the following:

- The ECB notes that the proposed Regulation lays down the conditions to be met by managers when registering EuVECA and EuSEF funds. These conditions include providing information on the identity of the persons effectively managing these funds, the funds themselves and the units or shares in the funds. The ECB considers that the information should include the global legal entity identifier (“**LEI**”) for identifying the funds and their authorised managers. The international securities identification number (“**ISIN**”) should also be included to identify the units of, or shares in, the funds to be marketed. The ECB believes that this will improve the reliability of this information and enable effective implementation of monetary policy.

- The above requirements to report the global LEI and ISIN should also apply to all financial markets and not just specific market segments. This would ensure availability of a minimum set of standardised information covering the main features of all institutions, products and transactions on the financial markets.

Where the ECB recommends amendments to the proposed Regulation, it has set out specific drafting proposals in the annex to the Opinion.

The full text of the Opinion is available at the following link:

http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2016_44_f_sign.pdf

(iii) Council of the EU publishes compromise proposal on Regulation amending EuVECA Regulation and EuSEF Regulation

On 26 September 2016, the Presidency of the Council of the EU published its first Compromise Proposal (12535/16) relating to the proposed Regulation amending the EuVECA and EuSEF Regulations (the "**Compromise Proposal**").

The new text added to the European Commission's original proposal, published in July 2016, is marked in underlined bold and deletions are indicated in strikethrough.

The text of the Compromise Proposal is available at the following link:

http://data.consilium.europa.eu/doc/document/ST-14496-2015-INIT/en/pdf

Packaged Retail Insurance-based Investment Products ("PRIIPs")

(i) European Commission adopts Delegated Regulation supplementing PRIIPs Regulation regarding product intervention

On 14 July 2016, the Commission adopted a Delegated Regulation supplementing the Regulation on key information documents for packaged retail and insurance-based investment products (Regulation 1286/2014) ("**PRIIPs KID Regulation**") with regard to product intervention (the "**Delegated Regulation**").

The Delegated Regulation is based on the empowerments set out in Articles 16 and 17 of the PRIIPs KID Regulation which give National Competent Authorities ("**NCAs**") and EIOPA the power to monitor financial products under their supervision and, subject to certain conditions, to prohibit or restrict temporarily the marketing, distribution or sale of insurance-based investment products, financial activities or practices.

The Delegated Regulation sets out the criteria and factors to be taken into account by both the NCAs (Article 2 of the Delegated Regulation) and EIOPA (Article 1 of the Delegated Regulation) when intending to use their product intervention powers in the event of significant investor protection concerns and a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the EU financial system or, respectively, of at least one Member State. As far as EIOPA is concerned, the criteria and factors set out in the Delegated Regulation are exhaustive.

The Delegated Regulation is subject to the scrutiny of Council of the EU and the European Parliament. If neither of them objects, it will enter into force 20 days after its publication in the Official Journal of the EU and will apply from 31 December 2016.

A copy of the full Delegated Regulation can be found here:

http://ec.europa.eu/transparency/regdoc/rep/3/2016/EN/3-2016-4369-EN-F1-1.PDF

(ii) PRIIPs Update: European Parliament votes to reject the Commission's proposed Regulatory Technical Standards

On 14 September 2016, the European Parliament voted to reject the PRIIPs Regulatory Technical Standards (the "**RTS**") which were endorsed by the Commission on 30 June 2016. This follows a vote by the European Parliament's Economic and Monetary Committee ("**ECON**") on 1 September 2016 to support a motion to reject the RTS.

The RTS, which supplement the EU regulation on key information documents for packaged retail and insurance-based investment products (the "**PRIIPs KID Regulation**"), specify the presentation, content and underlying methodology of the key investor document ("**KID**") that will have to be provided to retail investors when they buy certain investment products.

In rejecting the RTS, the European Parliament raised concerns over certain aspects of the KID including, amongst others, that the proposed methodology for the calculation of future performance scenarios contains flaws, that there is a lack of clarity relating to the treatment of multi-option products, and that a lack of detailed guidance in the RTS on the 'comprehension alert' creates a serious risk of inconsistent implementation of this element in the KID across the single market.

In its resolution of 14 September 2016, the European Parliament calls on the Commission to submit new RTS which take account of the European Parliament's concerns and also calls on the Commission to consider a proposal postponing the application date of the PRIIPs KID Regulation to ensure a smooth implementation of the requirements set out in both the PRIIPs KID Regulation and the RTS, and avoid the application of the PRIIPs KID Regulation without the RTS being in force in advance.

On 20 September 2016, the Council of the EU issued a statement also calling on the Commission to consider postponing the application date of the PRIIPS Regulation by 12 months in order to provide sufficient time to clarify open questions and reach the goals of the PRIIPs Regulation.

However, to date, no formal decision has been made on the application date and it therefore currently remains unchanged. The PRIIPs Regulation is binding in its entirety across all Member States so unless the application date is formally amended, the application date of 31 December 2016 continues to apply across all Member States, including Ireland. However, given that the Commission will have to submit new RTS to address the European Parliament's concerns and both the European Parliament and the

Council of the EU have called for a postponement of the application date, a delay is becoming more likely.

The European Parliament's provisional edition of its resolution of 14 September can be accessed via the following link:

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0347+0+DOC+PDF+V0//EN

The statement from the Council of the EU dated 20 September 2016 can be accessed via the following link:

http://data.consilium.europa.eu/doc/document/ST-12160-2016-ADD-1-REV-3/en/pdf

European Markets Infrastructure Regulation ("EMIR")

(i) ESMA publishes consultation on proposed delay to clearing obligation for financial counterparties with a limited volume of activity

On 13 July 2016, ESMA published a consultation paper proposing to change the phase-in period for central clearing of OTC derivatives applicable to financial counterparties with a limited volume of derivatives activity under EMIR. ESMA proposes to amend EMIR's Delegated Regulations on the clearing obligation to prolong, by two years, the phase-in for financial counterparties with a limited volume of derivatives activity i.e. those ones classified in Category 3 under EMIR Delegated Regulations.

The consultation closed on 5 September 2016 and ESMA will consider all responses received with a view to publishing a final report by the end of 2016.

A copy of the consultation is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1125_cp_on_clearing_obligation_for_financial_counterparties.pdf

(ii) Clearing obligation for Interest Rate Swaps in Norwegian Krone, Polish Zloty, and Swedish Krona

On 20 July 2016, Commission Delegated Regulation ((EU) 2016/1178) (the "**Delegated Regulation**") supplementing EMIR as regards regulatory technical standards on the clearing obligation was published in the Official Journal of the EU. The Delegated Regulation imposes mandatory clearing obligations to interest rate swaps denominated in Norwegian Krone, Polish Zloty and Swedish Krona. This is the third Delegated Regulation which has been published in the Official Journal of the EU.

On 21 July 2016, a corrigendum to the text of the Delegated Regulation was published in the Official Journal of the EU. The corrigendum amends several dates in the Delegated Regulation, which was published on 20 July 2016.

The Delegated Regulation came into force on 9 August 2016, 20 days after publication in the Official Journal of the EU. The Delegated Regulation can be found at this link:

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1178&from=EN

(iii) ESMA publishes updated Q&A on the implementation of EMIR

On 27 July 2016, ESMA issued an update of its Q&A on practical questions regarding the implementation of EMIR. The updated Q&A includes a new answer in relation to reporting of trades cleared by a clearing house which is not a central counterparty ("**CCP**") under the definition of a CCP which is contained in EMIR.

The Q&A clarifies that such entities should not be identified in the "CCP ID" field of EMIR reports. Also, in the case of trades that are executed in an anonymised market and cleared by a clearing house, the counterparty executing the transaction should request the trading venue or the clearing house that matches the counterparties to disclose the identity of the other counterparty before the reporting deadline.

A copy of the Q&A is available at the following link:

https://www.esma.europa.eu/press-news/esma-news/esma-updates-its-emir-qa-2

(iv) ESMA issues opinion on Danish pension scheme to be exempt from central clearing under EMIR

On 3 August 2016, ESMA issued an opinion regarding the exemption of a Danish pension scheme from the obligation to centrally clear OTC derivative contracts under EMIR.

Pension scheme arrangements ("**PSA**"s) meeting certain criteria were granted a transitional exemption from the clearing obligation under EMIR. Some pensions schemes have to ask their national competent authority to be exempted from the clearing obligation. Before deciding on an exemption, the relevant competent authority needs to obtain the opinion of ESMA which also needs to consult with the European Insurance and Occupational Pensions Authority ("**EIOPA**").

The opinion can be found at this link:
https://www.esma.europa.eu/sites/default/files/library/2016-1233_opinion_on_pension_schemes_exemption.pdf

A complete list of the types of entities/ arrangements that have been exempted from the clearing obligations of EMIR can be found at this link:
https://www.esma.europa.eu/sites/default/files/library/list_of_exempted_pension_schemes.pdf

(v) ESAs reject proposed amendments from the European Commission to technical standards on non-centrally cleared OTC derivatives

On 9 September 2016, the three European Supervisory Authorities ("**ESAs**"), (EBA, EIOPA and ESMA) published their opinion addressed to the European Commission expressing disagreement with its proposed amendments to the final draft RTS on risk mitigation techniques for OTC derivatives not cleared by a central counterparty, which were originally submitted for endorsement on 8 March 2016.

In particular, the ESAs disagree with the European Commission's proposal to remove concentration limits on initial margins for pension schemes and emphasise that these are crucial for mitigating potential risks pension funds and their counterparties might be exposed to.

A version of the draft RTS containing all of the EBA's corrections is included as an Annex to the opinion. The opinion can be found at this link:

https://esas-joint-committee.europa.eu/Publications/Opinions/ESAs%202016%2062%20(ESAs%20Opinion%20on%20RTS%20on%20OTC%20margins%20%20EMIR%2BRTS)-PR.pdf

(vi) Central Bank publishes letter relating to the reporting requirements of EMIR

Under EMIR, counterparties to derivative transactions are required to provide Trade Repositories (**"TR"**) with information regarding derivative trades. This information is also made available to, and monitored by, competent authorities to manage and mitigate systemic and contagion risk.

In addition to the aforementioned reporting, the Central Bank required non-financial counterparties with significant derivative positions to complete and submit an EMIR Regulatory Return (**"ERR"**) for the period ending 31 December 2015. During the course of 2016 the Central Bank undertook a detailed review of a selection of such ERR submissions to ensure that reporting is of a high standard. The review focused on whether the data was complete, accurate and reliable taking into account the requirements of EMIR.

Further to those reviews, the Central Bank published a letter (the **"Letter"**) on its website on 30 September 2016 to provide feedback to the ERR respondents on the main issues identified in order to help such respondents improve their compliance with the reporting requirements of EMIR. As such the findings in the Letter are relevant to all market participants who are required to report details of their derivative transactions to TRs. The recommendations in the Letter are as follows:

- A counterparty which has delegated reporting arrangements should ensure it receives regular feedback from the delegate in order to reconcile the data in the TR database with internal systems. Counterparties should also ensure, where required, that relevant remedial action is undertaken to ensure compliance with

EMIR. The provision of such feedback should be included in any delegated reporting agreement entered into by a counterparty.

- Where a counterparty is availing of a delegated reporting services it should ensure it receives details of any rejected trade submissions from the reporting entity and that appropriate remedial action has been taken. This requirement should be included in any delegated reporting agreement entered into by a counterparty.

- The Central Bank expects that all counterparties regularly review TR Rejection Reports to ensure that:
    - All trade submissions are successfully reported to a TR;
    - Revised correct data submissions, where required, are made on a timely basis; and
    - Remedial action has been undertaken to limit the number of rejected reports in the future.

- A counterparty with a legal entity identifier (**"LEI"**) in place should ensure that details of this are shared with any entity with which it trades or to which it has delegated reporting.

- All reviews of trade repository data should confirm that the counterparty is correctly identified with its LEI.

- Counterparties should ensure that LEIs are renewed annually. Lapsed LEIs will not be deemed valid for reporting purposes. In this regard entities offering delegated reporting services are recommended to monitor the renewal date for clients' LEIs and, in a timely manner, notify clients accordingly.

- Counterparties should ensure that a unique trade identifier (**"UTI"**) is communicated to all relevant parties in advance of the trade being reported to a TR, is applied to individual trades. A counterparty should be in a position to explain how it ensures the UTI is unique.

- Where responsibility for UTI generation is delegated to another entity the delegating counterparty should ensure that tit is advised of the UTI in a timely manner. The counterparty should be aware of how it can be deemed unique.

A link to the Letter is set out below:

http://www.centralbank.ie/regulation/EMIR/Documents/EMIR%20Industry%20Feedback%20Letter.pdf

Benchmarks Regulation

(i) ESMA publishes responses to its consultation on draft technical advice on the Benchmarks Regulation

On 7 July 2016, ESMA published the responses it has received to its consultation paper on draft technical advice on the Benchmarks Regulation (the "**Consultation Paper**"). The Consultation Paper was published on 27 May 2016 and the deadline for responses was 30 June 2016.

The Benchmarks Regulation entered into force on 30 June 2016. ESMA is required to provide technical advice to the European Commission within four months of this date and it intends to submit a final report containing the technical advice to the European Commission in October 2016.

A copy of the Consultation Paper is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-723_cp_benchmarks_regulation.pdf

The responses to the Consultation Paper may be accessed via the following link:

https://www.esma.europa.eu/press-news/consultations/consultation-paper-esma-technical-advice-benchmarks-regulation

(ii) Implementing Regulation establishing a list of critical benchmarks used in financial markets under Benchmarks Regulation published in the Official Journal of the EU

On 12 August 2016, Commission Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks for the purposes of the Benchmarks Regulation (the "**Implementing Regulation**") was published in the Official Journal of the EU.

The Implementing Regulation establishes the Euro Interbank Offered Rate ("**EURIBOR**") as the first critical benchmark and entered into force on 13 August 2016.

The Benchmarks Regulation entered into force on 30 June 2016 and (with the exception of certain provisions) will apply from 1 January 2018.

The full text of the Implementing Regulation may be accessed via the following link:

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1368&from=EN

(iii) ESMA consults on technical standards under Benchmarks Regulation

On 29 September 2016, ESMA published a consultation paper containing draft RTS and ITS required under the Benchmarks Regulation (the "**Consultation Paper**").

The Consultation Paper follows ESMA's February 2016 discussion paper on the technical implementation of the Benchmarks Regulation (the "**Discussion Paper**"). The paper is divided into ten chapters each addressing one of the areas for which the Benchmarks Regulation requires ESMA to develop draft technical standards. Each chapter summarises the relevant provisions and objectives, provides an explanation of the related policy issues and references to the relevant responses received to the Discussion Paper.

The closing date for responses to the Consultation Paper is 2 December 2016. ESMA will consider the feedback it receives with a view to finalising the RTS and ITS in order to submit them to the European Commission before 1 April 2017.

The Consultation Paper is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1406.pdf

Credit Rating Agencies ("CRAs")

(i) ESMA publishes consultation paper containing guidelines on the validation and review of CRAs' methodologies

On 13 July 2016, ESMA published a consultation paper containing proposed guidelines on the validation and review of CRAs' methodologies (the "**Consultation Paper**").

The purpose of the draft guidelines is to clarify ESMA's expectations regarding how CRAs should validate and review their methodologies. The aim of the Consultation Paper is to achieve a consistent application of validation and review measures across CRAs through the demonstration of the discriminatory power, the predictive power and historical robustness of their methodologies, as well as identifying measures that CRAs should implement when validating and reviewing methodologies with limited quantitative evidence.

The deadline for responses to the Consultation Paper was 22 August 2016. ESMA will now consider the feedback it received with a view to finalising the proposed guidelines and publishing a final report in Q1 2017.

A copy of the Consultation Paper is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1121_cp_guidelines_on_validation_review_of_cras_methodologies.pdf

The Joint Committee (ESMA, EIOPA and EBA)

(i) Joint Committee publishes report on risks and vulnerabilities in the EU financial system

On 7 September 2016, the Joint Committee of the ESAs published its report on risks and vulnerabilities in the EU financial system (the "**Report**").

The Report highlights the following risks to the EU financial system, which it explains have persisted for some time and result from the lasting effects of the 2007 financial crisis:

- **Low growth and low yield environment** – The Report outlines that this may lead banks, insurers, pension funds and other investors to engage in risky search-for-yield business, increasing risks around asset valuation and concerns about market liquidity. The Joint Committee believes it is essential to develop effective recovery and resolution schemes in all relevant sectors, apply adequate stress testing procedures and enhance monitoring of relevant risk drivers;

- **Profitability of financial institutions** – The Report states that a number of factors, including low quality of assets, growing competition from Fintech providers and subdued returns have negatively affected the profitability of financial institutions; and

- **Interconnectedness within the financial system** – The Report points out that interconnectedness between the financial sector (outside the banking, insurance and pension fund industries) with the wider financial system is increasing. This is a result of the growth of cross-sectoral exposures, asset price commonalities and the interdependency of business processes. The Joint Committee believes that related stability risks should be thoroughly assessed to mitigate the increasing risk exposure outside the traditional financial system.

The Report also discusses the impact of the UK referendum on EU membership, which the Joint Committee believes has added further political and legal uncertainty.

A copy of the Report is available at the following link:

http://www.eba.europa.eu/documents/10180/1360107/JC+2016+47+RSC+-+Joint+Risk+Report+-+Autumn+2016.pdf

The European Commission

(i) European Commission publishes summary of contributions to Green Paper on retail financial services

On 14 July 2016, the European Commission published a summary of the responses it received to its December 2015 Green Paper on retail financial services (the "**Consultation**"). The objective of the Consultation was to improve choice, transparency and competition in the area of retail financial services and to facilitate cross-border supplies of these services, so that financial firms can make the most of the economies of scale in a truly integrated EU market.

Key messages that the European Commission has drawn from the Consultation include:

- Many individual consumers were interested in easier access to simple financial products. They saw most need for change in the areas of currency exchange transactions and certain digital financial services (such as on-line financial advice);

- Consumer organisations often referred to "simple products" as most appropriate for future cross-border sales. They believed consumers need simpler, better products but not necessarily more products. They also emphasised the importance of consumer trust and some expressed doubt as to whether consumers could trust sufficiently financial service providers in cross-border situations;

- Firms noted insufficient demand from consumers who would simply not want to purchase products when sold cross-border. Many emphasised that they do not provide services cross-border as they do not see a business case for it. They also raised concerns that they face specific obstacles when trying to offer services cross-border, many of which were outlined in the Consultation;

- A number of respondents called for the European Commission to ensure that there is a level playing field between different types of market players, between firms in different Member States and between EU and non-EU firms. They believed that different regulatory requirements were a key reason why the level playing field does not currently exist.

The European Commission stated that it is working on a follow-up initiative, which might take the form of an action plan.

A copy of the European Commission's summary of the responses received to the Consultation together with an annex providing a more detailed summary of the responses may be accessed via the following link:

http://ec.europa.eu/finance/consultations/2015/retail-financial-services/index_en.htm

(ii) EU and US establish joint financial regulatory forum

On 19 July 2016, the European Commission announced, in a joint statement with the US Treasury, that the Financial Markets Regulatory Dialogue has been succeeded by the Joint EU-US Financial Regulatory Forum (the "**Forum**").

The aim of the Forum is to act as a platform for enabling regulatory co-operation, with the objective of improving transparency, reducing uncertainty, identifying potential cross-border implementation issues, working towards avoiding regulatory arbitrage and promoting domestic implementation consistent with international standards.

The Forum will meet twice a year, although there may be additional technical meetings and calls, as appropriate, between the biannual meetings. The Commissioner for financial stability, financial services and the capital market union and the US Treasury Secretary will meet once each year to discuss financial regulatory matters and to review the functioning of the Forum.

A copy of the joint statement is available at the following link:

http://ec.europa.eu/finance/docs/160718-fmrd-enhancement_en.pdf

(iii) European Commission consults on review of EU macro-prudential framework

On 1 August 2016, the European Commission published a consultation paper on its review of the EU macro-prudential framework (the "**Consultation Paper**"), as part of its work towards a capital markets union, with a view to identifying the most urgent issues to be addressed in a review of the relevant legislative texts.

The macro-prudential framework is to ensure the stability of the financial system as a whole and to allow the EU Member States to address specific financial stability risks. The framework is currently made up of the following five pieces of legislation:

- Two European Systemic Risk Board ("**ESRB**") Regulations (Regulation (EU) 1092/2010 and Regulation (EU) 1096/2010);
- CRD IV;
- CRR; and
- The Single Supervisory Mechanism Regulation (Regulation (EU) 1024/2013) ("**SSM Regulation**").

The aim of the Consultation Paper is to address weaknesses arising from the piecemeal development of the framework, including:

- The large, overlapping toolset of macro-prudential instruments available under EU legislation;
- The inconsistent way these instruments are activated;
- The complex process for co-ordinating these measures; and
- The role and scope of the ESRB.

The consultation period closes on 24 October 2016. A copy of the Consultation Paper is available at the following link:

http://ec.europa.eu/finance/consultations/2016/macroprudential-framework/docs/consultation-document_en.pdf

The European Fund and Asset Management Association ("EFAMA")

(i) EFAMA's Report on ESMA's supervisory work on potential closet index tracking

On 26 July 2016, EFAMA published a report on closet index funds (the "**Report**"). The Report follows a review of ESMA's supervisory work on potential closet index tracking carried out between 2012 and 2014 and published in February 2016.

The Report highlights that ESMA's work on closet indexing raises legitimate questions about the quality of information given by funds that are not actively managed but claim to be actively managed. EFAMA states that the difficulty in addressing this problem relates to the identification of this type of fund and a wide range of factors must be taken into account to assess whether a fund is being actively managed (e.g. the fund's objectives and the extent to which the stated investment policy allows the fund to take risks, the research efforts to build the fund portfolio, the reference investment universe, the investments strategy and style and the degree of freedom available in relation to a benchmark when a reference to a benchmark is made).

Following a detailed review of ESMA's supervisory work, the Report concludes that closet indexing raises two questions:

- **How can NCAs identify closet index funds?** – EFAMA highlights that a wide range of factors (as outlined above) must be taken into account to assess whether a fund is being actively managed and that an analysis based on a few quantitative indicators can only be the first step in the identification of closet indexing. The Report agrees with ESMA's position that definitive evidence would require a detailed fund-by-fund follow-up analysis before NCAs can decide that a low active share fund that identifies itself as being actively managed is a closet index fund, and require that the fund managers concerned to correct the information provided to investors;

- **Is there a need to take action to better protect investors?** – EFAMA believes that the existing UCITS framework contains sufficient general and specific disclosure requirements in relation to a fund's investment objectives and essential characteristics and provide a sound legal basis for NCAs to ensure that investors are reasonably informed and receive appropriate information about the fact that the portfolio management of a UCITS, although actively managed, may to a certain extent be "benchmark-constrained".

  The Report highlights that the practical interpretation of some of the existing legal requirements may require clarification and that EFAMA are currently looking into this matter.

  EFAMA has also adopted two recommendations to further improve the quality of disclosures to investors:

  1. When preparing the fund's legal documentation and related marketing materials, UCITS management companies should take particular care to disclose in a fair, complete and understandable manner the essential characteristics of the fund, including in particular when describing the degree of freedom available to the portfolio manager in relation to the fund's benchmark (as is required under the UCITS KIID Regulation); and

  2. For UCITS presenting themselves as being actively managed, it would also be good practice for UCITS management companies to keep internal records and evidence, as appropriate, to explain to NCAs that the disclosures that have

been made to investors truly reflect the level of active management provided by the fund.

A copy of the Report is available at the following link:

https://www.efama.org/Publications/Statistics/Other%20Reports/EFAMAReportClosetIndexFunds.pdf

(ii) EFAMA publish quarterly statistical release for Quarter 2 2016

On 12 September 2016, EFAMA published its quarterly statistical release describing the trends in the European investment fund industry in the second quarter of 2016.

The main developments for the second quarter of 2016 are as follows:

- Net sales of UCITS rebounded to €71 billion, from net outflows of €7 billion in Quarter 1, 2016;
- Long-term UCITS (i.e. UCITS excluding money market funds) posted net inflows of €44 billion, compared to net outflows of €5 billion in Quarter 1, 2016;
- UCITS money market funds experienced net inflows of €28 billion, against net outflows of €2 billion in Quarter 1, 2016; and
- AIF net sales increased to €55 billion, from €43 billion in Quarter 1, 2016.

Total European investment fund net assets increased by 2.1% in Quarter 2, 2016 to €13,290 billion. Net assets of UCITS went up by 1.7% to €8,073 billion, and total net assets of AIFs increased by 2.8% to €5,217 billion.

A copy of the quarterly statistical release is available at the link below:

http://www.efama.org/Publications/Statistics/Quarterly/Quarterly%20Statistical%20Reports/160912_Quarterly%20Statistical%20Release%20Q2%202016.pdf

International Swaps and Derivatives Association ("ISDA")

(i) ISDA launches 2016 Variation Margin Protocol

On 16 August 2016, ISDA launched the ISDA 2016 Variation Margin Protocol (the "**Protocol**") that will help market participants comply with new variation margin requirements which shall come into force from March 2017.

The protocol is stated to enable counterparties to quickly and efficiently put contractual documentation in place with multiple counterparties in order to implement the requirements, or to make changes to existing collateral agreements to bring them into compliance.

Several jurisdictions, including the US and Japan, have adhered to a globally coordinated implementation schedule developed by the Basel Committee on Banking Supervision and IOSCO. Following this schedule, financial firms with the largest derivatives portfolios globally are expected to exchange initial and variation margin on their non-cleared derivatives trades from 1 September 2016. All firms that fall within the scope of the rules will have to post variation margin from 1 March 2017. The Protocol is targeted specifically towards this total implementation of variation margin rules.

The text of the Protocol, guidance on the mechanics and a link for adherence, along with answers to frequently asked questions and a list of adherents, are available on the "protocol management" section of ISDA's website, which may be accessed via the following link:

http://www2.isda.org/functional-areas/protocol-management/open-protocols/

(ii) ISDA recommends greater standardisation in derivatives market

On 15 September 2016, ISDA published a paper identifying a number of opportunities for greater standardisation and automation of derivatives trade processes in order to achieve improved efficiency, reduced complexity and lower costs for market participants. ISDA proposes better collaboration across all sectors of the derivatives market, in order to deal with the current challenges faced by market participants.

The paper highlights a number of challenges with existing structures and processes, and recommends several steps the industry can take to create efficiencies. ISDA is working with stakeholders to develop a common view of an efficient market infrastructure and associated processes, which will enable the design of effective solutions. Furthermore, ISDA will work with its members to explore opportunities to leverage advances in technology, as well as facilitate collaboration and communication between market participants.

The paper highlights three areas where further standardization can be achieved, namely, documentation, data and processes and ISDA states that it will work with members to identify areas where there is a consensus for additional standard terms within the existing documentation.

The paper further recommends the adoption of a standard, multi-use derivatives product identifier as a key requirement for reducing duplication and inconsistency. ISDA also calls on the industry to collaborate to agree on standards, processes and data elements for certain common processing tasks.

A copy of the paper is available here:

http://www2.isda.org/functional-areas/infrastructure-management/market-infrastructure-and-technology/

International Organisation of Securities Commissions

(i) IOSCO publishes final report on good practice for fees and expenses of collective investment schemes

On 25 August 2016, IOSCO published its final report on Good Practice for Fees and Expenses of Collective Investment Schemes (the "**Report**").

The Report follows IOSCO's June 2015 consultation report on the fees and expenses of investment funds and seeks to build on IOSCO's final report on elements of international regulatory standards on fees and expenses of investment funds published in November 2004.

The Report sets out twenty-three examples of good practice relating to issues including transaction costs, changes to the fees and expenses of a collective investment scheme, hard and soft commissions on transactions, fees associated with collective investment schemes that invest in other funds, fee differentiation in multi-class collective investment schemes and permitted and prohibited expenses for a collective investment scheme.

A copy of the Report may be accessed via the following link:

http://www.iosco.org/library/pubdocs/pdf/IOSCOPD543.pdf

(ii) IOSCO publishes consultation on good practices for the termination of investment funds

On 18 August 2016, IOSCO published a consultation report on good practices for the termination of investment funds (the "**Consultation**"). The aim of the Consultation is to obtain feedback from stakeholders on these good practices for collective investment schemes and other fund structures such as commodity, real estate and hedge funds. The scope of the Consultation covers retail investment funds and investment funds for professional investors.

The Consultation outlines proposed good practices on the voluntary termination for investment funds that are categorised under the following headings:

- Disclosure at time of investment;
- Decision to terminate;
- Decision to merge;
- During the termination process; and
- Specific types of investment funds.

A consolidated list of consultation questions is presented in Appendix 1 to the Consultation.

IOSCO will consider submissions to the Consultation made on or before 17 October 2016.

A copy of the Consultation is available at the following link:

https://www.iosco.org/library/pubdocs/pdf/IOSCOPD542.pdf

Market Abuse Regulation

(i) New Market Abuse Regime comes into force

On 3 July 2016, the new Market Abuse Regime became applicable in Ireland and across the EU. The Market Abuse Regime consists of the Market Abuse Regulation (Regulation 596/2014) ("**MAR**") and Directive 2014/57/EU on criminal sanctions for market abuse ("**CS MAD**"). MAR and CS MAD are collectively referred to as "**MAD II**".

The aim of MAD II is to enhance market integrity and investor protection. To this end, MAR updates and strengthens the existing market abuse framework by extending its scope to new markets and trading strategies and introducing new requirements and standards.

In addition, MAR does not limit its scope to financial instruments traded on regulated markets in the EU, but extends its requirements to financial instruments listed or traded on MTFs and OTFs, including derivatives.

Other changes include additional notification requirements in relation to suspicious activity, delay in the disclosure of inside information, managers' transactions and enhanced requirements regarding the preparation and maintenance of insider lists and the handling of inside information.

In Ireland, CS MAD (and certain elements of MAR including the delegated acts) have been transposed into Irish law by the European Union (Market Abuse) Regulations 2016 (S.I. 349 of 2016) (the "**2016 Regulations**"). The 2016 Regulations replace the previous Market Abuse (Directive 2003/6/EC) Regulations 2005 (S.I. 342 of 2005).

Following the implementation of the new Market Abuse Regime, the Central Bank published revised Market Abuse Rules and Guidance on the Market Abuse Regulatory Framework, which have been updated to align with MAD II.

The Irish Stock Exchange ("**ISE**") has also published revised rulebooks to reflect the changes to Market Abuse legislation.

Copies of the revised rulebooks together with updated forms may be accessed via the following link:

http://www.ise.ie/Media/News-and-Events/2016/Revised-ISE-rulebooks-reflect-changes-to-EU-Market-Abuse-Legislation.html

Dillon Eustace has published an article on the impact of MAD II for listed investment funds. A copy of the article is available at the following link:

http://www.dilloneustace.ie/download/1/Publications/Financial%20Services/Market%20Abuse%20A%20New%20Regime%20for%20Investment%20Funds.pdf

A copy of the 2016 Regulations is available at the following link:

http://www.finance.gov.ie/sites/default/files/SI%20349%20of%202016.pdf

(ii) ESMA updates Q&A on MAR

On 13 July 2016, ESMA published an updated version of its questions and answers paper MAR (the "**Q&A**"). The aim of the Q&A is to promote common supervisory approaches and practices in the application of MAR and its implementing measures.

The updated Q&A includes a new question on the issue of managers' transactions and confirms that, with regard to the timing of the closed period referred to in Article 19(11) of MAR, there should be only one closed period relating to the announcement of every interim financial report and another relating to the year-end report.

The Q&A may be accessed via the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1129_mar_qa.pdf

(iii) ESMA publishes final guidelines on market soundings and delayed disclosure of inside information under MAR

On 13 July 2016, ESMA published its final guidelines clarifying the implementation of the MAR for individuals receiving market soundings and on delayed disclosure of inside information (the "**Guidelines**"). The Guidelines follow ESMA's consultation on market soundings and delayed disclosure of inside information under MAR in January 2016.

The Guidelines suggest some procedures that recipients of market soundings should adopt in order to protect themselves from any suggestions of insider dealing or unlawful disclosure. The Guidelines also include a list of scenarios in which the delayed disclosure of inside information might be justified to protect the issuer's legitimate interests, and where a delay would be likely to mislead the public.

Market soundings are communications of information made to potential investors before a transaction is announced, to gauge the interest of potential investors in a possible transaction and the conditions relating to it, such as its potential size or pricing. Article 11 of MAR introduces a new safe harbour from the offence of unlawful disclosure of inside information if certain conditions (including various procedural requirements set out in technical standards) are met.

The Guidelines set out:

- The factors that recipients of information must take into account when information is disclosed to them as part of a market sounding to assess whether the information amounts to inside information;

- The steps that those persons must take if inside information has been disclosed to them; and

- The records that those persons must maintain to demonstrate that they have complied with MAR.

On the legitimate interests of issuers to delay disclosure of inside information and on situations in which the delay of disclosure is likely to mislead the public, the Guidelines provide a non-exhaustive list of situations where the legitimate interests of the issuer are likely to be prejudiced by the immediate disclosure of inside information. ESMA states that each situation should be assessed on a case-by-case basis and that the ability to delay would represent the "exception to the rule" so should be interpreted narrowly. The Guidelines also provide a non-exhaustive list of situations in which the delay of disclosure is likely to mislead the public, and therefore, in such situations, the disclosure may not be delayed.

A copy of the Guidelines may be accessed via the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1130_final_report_on_mar_guidelines.pdf

(iv) ESMA publishes final report on draft ITS on sanctions and measures under MAR

On 26 July 2016, ESMA published its final report on the draft ITS on sanctions and measures under MAR (the "**Report**"). The draft ITS prescribe how NCAs should notify ESMA annually of the investigations they conduct and the sanctions and measures imposed in their Member States under MAR.

MAR provides for two types of submission of information, which are as follows:

- NCAs are required to provide ESMA annually with aggregated information regarding all administrative and criminal sanctions and other administrative measures imposed in accordance with Articles 30, 31 and 32 of MAR, as well as regarding administrative and criminal investigations undertaken in accordance with those articles; and

- Administrative and criminal sanctions and other administrative measures that are disclosed to the public by NCAs shall simultaneously be reported to ESMA.

The text of the draft ITS is set out in Annex II to the Report.

In an accompanying letter, ESMA explains that it has not consulted on the draft ITS. This is because the draft ITS are addressed to, and set out obligations for, NCAs and ESMA only. The letter also states that ESMA is currently finalising two other draft ITS and a RTS relating to co-operation within the EU and with third-country authorities, respectively.

The final ITS have been submitted to the European Commission for endorsement which will be followed by a non-objections period by the European Parliament and the Council of the EU.

A copy of the Report is available at the link below:

https://www.esma.europa.eu/sites/default/files/library/2016-1171_final_report_mar_its_sanctions_and_measures.pdf

A copy of the letter accompanying the Report is available at the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1164_letter_to_commissioner_dombrovskis_mar_its.pdf

(v) Central Bank Issues Q&A on Managers Transactions and Council of the EU issues correction to translation errors

On 12 September 2016, the Central Bank published its first edition of the Market Abuse Regulatory Framework questions and answers paper (the **"Q&A"**). The Q&A sets out answers to queries that may arise in relation to the Market Abuse regime. It is published in order to assist in limiting uncertainty and is not relevant to assessing compliance with regulatory requirements.

Some issues that the Central Bank provided further clarity on include:

- **Reporting of managers transactions** – Article 19 of MAR requires persons discharging managerial responsibilities ("**PDMRs**") and persons closely associated with PDMRs ("**PCAs**") to report every transaction, conducted on their own account, in the shares and debt securities of the listed issuer, and in derivatives or financial instruments linked to such shares or debt securities. In the context of a listed fund, the directors are considered PDMRs;

- **Reporting timelines** – A PDMR or PCA is obligated to directly notify the issuer and the Central Bank of each transaction within 3 business days and the issuer is also required to separately notify the market of the transaction, by way of announcement, within the same 3 business day timeframe;

- **Minimum thresholds for reporting** – This has been introduced for reporting such transactions, with transactions under €5,000 in any calendar year not reportable. All transactions by a PDMR or PCA must be aggregated for the purpose of the threshold and not netted, with the Central Bank clarifying that issuers may not elect to report transactions under the €5,000 threshold. Any transactions in excess of the threshold must be notified, including the transaction which results in this minimum threshold being exceeded;

- **Registration by PDMRs and PCAs with Central Bank Online Reporting System –** Each PDMR and PCA is required to register directly with the Central Banks online

reporting system (**"ONR"**). The Central Bank will issue login passwords directly to the PDMR or PCA. A PDMR or PCA may not use the issuers ONR account to report their transactions; and

- **Notification to PDMRs and PCAs of their obligations under MAR** – A listed issuer should notify its PDMRs and PCAs of their reporting obligations in writing, and should maintain a copy of such notifications. PDMRs within a listed issuer should acknowledge their responsibilities in relation to reporting of transactions in the securities of the listed issuer. Each PDMR should inform the listed issuer of those persons which are closely associated with him/her. A listed issuer should record the identities of its PDMRs and PCAs

A copy of the Q&A is available at the following link:

http://www.centralbank.ie/regulation/securities-markets/market-abuse/Documents/MARKETABUSE%20QA%20Edition%201%20(3).pdf

Dillon Eustace has prepared an article on the Q&A, a copy of which may be accessed via the following link:

http://www.dilloneustace.ie/download/1/Publications/Listings/Market%20Abuse%20Regulation%20Update.pdf

(vi) ESMA issues final guidelines on inside information and commodity derivatives under MAR

On 30 September 2015, ESMA published its final report containing guidelines on information relating to commodity derivatives that is to be disclosed under MAR (the "**Final Report**").

Article 7(5) of MAR requires ESMA to issue guidelines to establish a non-exhaustive list of information that is reasonably expected or required to be disclosed in accordance with legal or regulatory provisions in EU or national law, market rules, contract, practice or custom, on the relevant commodity markets or spot markets.

The Final Report follows ESMA's March 2016 consultation paper on draft guidelines on disclosure of information on commodity derivatives markets or related spot markets under MAR.

ESMA states that it expects market participants, investors and regulators to take the list of examples provided in the guidelines into account when assessing whether information is inside information, although other conditions of the definition not covered by the guidelines should also be taken into account. The Final Report also explains that the guidelines do not impose any additional information disclosure requirements, as the concept of "required to be disclosed" refers to existing or future disclosure requirements (such as, under national law), independent of the guidelines.

The text of the guidelines is outlined at Annex 4 to the Final Report. The guidelines will be translated into the official languages of the European Union and published on ESMA's website. NCAs have two months from the issuance of the different language versions of the guidelines to confirm whether or not they intend to comply with them. If an NCA does not comply or does not intend to comply, it will have to inform ESMA, stating its reasons.

A copy of the Final Report is available at the following link:

https://www.esma.europa.eu/press-news/esma-news/esma-issues-final-guidelines-commodity-derivatives-inside-information

Prospectus Directive

(i) ESMA publishes updated Q&A on prospectuses

On 15 July 2016, ESMA published an updated version of its questions and answers paper on prospectuses (the "**Q&A**"). The aim of the Q&A is to promote common supervisory approaches and practices in the application of the Prospectus Directive and its implementing measures.

The new questions relate to the dissemination of amended advertisements when the advertisement is a roadshow and the inclusion of alternative performance measures ("**APMs**") in information disclosed about the offer to the public or the admission to trading on a regulated market.

The Q&A confirms that the general requirement to amend a roadshow advertisement still applies. Accordingly, the issuer/offeror is required to disseminate an amended version of the information provided in the roadshow through the means which it considers most suitable to reach the participants of the roadshow (e.g. by way of a press release, publication on the website of the issuer/offeror or by direct correspondence with the roadshow participants).

With regard to the provision of information about an APM which is not included in the prospectus during the course of a live presentation (e.g. a roadshow/interview) ESMA has confirmed the following:

- The Q&A states that, before the prospectus is approved and published, the issuer/offeror is free to provide information on the APM in question. However, in order to ensure that no APM is included in information disclosed about the offer/admission to trading without being included in the prospectus, the issuer/offeror should afterwards include the APM in the draft prospectus before this is approved and published. ESMA also states that, in such circumstances, its Guidelines on APMs should be taken into account; and

- The Q&A states that where the disclosure of information about an APM is not included in the approved and published prospectus, then the issuer/offeror can proceed in one of two ways:

(a) It can elect to provide information on the APM and afterwards publish a supplement containing this APM, thereby ensuring consistency between the prospectus and the information disclosed about the offer/admission to trading. In such case, the ESMA Guidelines on Alternative Performance Measures should be taken into account; or

(b) Alternatively, if the issuer, offeror or person asking for admission to trading does not wish to publish a supplement, it should decline to provide information on the APM as there will otherwise be a breach of the requirement set out in Article 12(1)(d) of Commission Delegated Regulation (EU) 2016/301, which sets out the RTS in relation to the approval and publication of the prospectus and dissemination of advertisements.

A copy of the updated Q&A may be accessed via the following link:

https://www.esma.europa.eu/sites/default/files/library/2016-1133_25th_version_qa_document_prospectus_related_issues.pdf

(ii) European Parliament adopts European Commission's proposal for a new Prospectus Regulation

On 15 September 2016, the European Parliament adopted, with certain amendments, the European Commission's proposal for a new Regulation to replace the Prospectus Directive.

The main amendments adopted by the European Parliament are as follows:

- **Scope** – The Regulation shall not apply to offers of securities to fewer than 350 persons per Member State and to a total of no more than 4,000 persons in the EU (other than certain investors), or to offers with a total consideration in the EU below EUR1 million, calculated over a period of 12 months;

- **Exemptions** – Member States can decide to exempt offers from the prospectus requirement provided that the total consideration of the offer in the EU does not exceed EUR5 million, calculated over a period of 12 months;

- **Prospectus summary** – In exceptional circumstances, a competent authority may allow an issuer to produce a longer summary of up to 10 sides of A4 sized paper when printed (instead of six) where the complexity of the issuer's activities so requires. No summary will be required for a prospectus relating to the admission to trading on a regulated market of non-equity securities offered solely to qualified investors;

- **EU growth prospectus** – The Regulation introduces the concept of an EU growth prospectus for the proportionate disclosure regime set out in Article 15. Such prospectuses will have reduced content requirements and be in a standardised format.

The full text adopted by the European Parliament can be accessed via the following link:

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0353+0+DOC+PDF+V0//EN

(iii) Prospectus Handbook – A Guide to Prospectus Approval in Ireland

On 20 September 2016, the Central Bank published the published the latest version of its Prospectus Handbook (the "**Handbook**") for issuers of transferable securities which are subject to the Prospectus Directive and certain law firms, listing agents, stockbrokers and investment banks who act as service providers to those issuers.

The changes made are regarding the change to the process for submission of final terms and some other minor technical changes.

The latest version of the Handbook will have effect from 20 September 2016.

A copy of the Handbook is available at the following link:

http://www.centralbank.ie/regulation/securities-markets/prospectus/Documents/Prospectus%20Handbook%202014%20PDF.pdf

Transparency Directive

(i) Delegated Regulation on European Electronic Access Point published in Official Journal of the EU

On 31 August 2016, Commission Delegated Regulation (EU) 2016/1437 supplementing the Transparency Directive (Directive 2004/109/EC) with regard to regulatory technical standards on access to regulated information at Union level (the "**Delegated Regulation**") was published in the Official Journal of the EU.

No material changes have been made to the final draft of the Delegated Regulation published by the European Commission in May 2016. The European Electronic Access Point ("**EEAP**"), which is a web portal to be developed and operated by ESMA, will provide a single point of access to regulated information (including annual reports and major shareholding notifications) stored by officially appointed mechanisms ("**OAMs**") in each Member State.

The Delegated Regulation implements stringent rules on the facilitation of access through the EEAP, OAM communication technologies, support and maintenance and the information on the common list and classification of regulated information.

The Delegated Regulation entered into force on 20 September 2016, however, Article 7 (Unique identifier used by official appointed mechanisms) and Article 9 (Common list and classification of regulated information) will apply from 1 January 2017.

A copy of the Delegated Regulation may be accessed via the following link:

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1437&from=EN

Consumer Rights Directive

(i) Consumer Protection Act 2007 (Competition and Consumer Protection Commission) Levy Regulations 2016 brought into law

On 15 September 2016 the Consumer Protection Act 2007 (Competition and Consumer Protection Commission) Levy Regulations 2016 (SI 479/2016) (the **"Regulations"**) were brought into law.

The Regulations amend the Consumer Protection Act 2007 (National Consumer Agency) Levy Regulations 2011 and provide for a levy scheme to fund the provision of information in relation to financial services including information in relation to the costs to consumers, the risks and benefits associated with the provision of those services and promoting the development of financial education and capability.

The text of the Regulations is available at the following link:

http://www.irishstatutebook.ie/eli/2016/si/479/made/en/pdf

Central Bank of Ireland

(i) Central Bank publishes feedback statement on CP100

On 4 July 2016, the Central Bank published a feedback statement (the "**Feedback Statement**") on its Consultation Paper on Risk Assessment and Capital Planning for Fund Administrators ("**CP 100**").

CP100 relates to the publication of an Investment Firm Rulebook ("**the Rulebook**") which consolidates into one document of all the conditions and requirements which the Central Bank imposes on investment firms. Having considered the options available to the Central Bank to achieve this, the Central Bank intends to publish the Rulebook in the form of Central Bank Regulations (the **"Proposed Regulations**") pursuant to the provisions of the Central Bank (Supervision and Enforcement) Act 2013 which permits the Central Bank to make regulations for the proper and effective regulation of regulated financial service providers. The Proposed Regulations are expected to be published before the end of the year. In order to assist firms implementing the Proposed Regulations, it is the Central Bank's intention to publish Guidance for firms on the Proposed Regulations. This will include the guidance provided in the draft Guidance Note attached to CP 100.

The Feedback Statement summarises the responses received, along with the Central Bank's comments and decisions. In total, four responses were received. The Feedback Statement covers the following:

- **Proposed Risk Assessment and Capital Planning –** Regulation 98 of the Proposed Regulations proposes requiring Fund Administrators to have in place sound, effective,

and comprehensive strategies processes and systems to identify and manage the risks that are applicable to the Fund Administrator and to assess whether the Fund Administrator has adequate own funds to cover those risks. This requirement encourages a risk-focused approach to capital and brings requirements in this area broadly in line with those applying to MiFID investment firms in Ireland.

Two respondents were opposed to the Central Bank's proposal to introduce a risk assessment and capital planning requirement for Fund Administrators and respondents questioned the appropriateness of mandating stringent requirements in relation to risk assessment and capital planning, particularly by way of statutory instrument. In particular the respondents highlighted that the business model of a Fund Administrator was not comparable to that of a MiFID firm and that the balance sheet of a Fund Administrator is not as vulnerable to significant and relatively quick movements such as those that banks may experience from credit losses or mark to market valuations.

In its Feedback Statement, the Central Bank sets out that it aims to establish risk assessment and capital planning requirements that are similar in nature to the Pillar 2 requirements but that are tailored to a Fund Administrator's activities and take into account the more straight-forward business models of Fund Administrators.

- **Sources of Risk –** Regulation 101 of the Proposed Regulations proposes a list of sources of risk and requires that a Fund Administrator must, at a minimum, assess whether each of the risks listed is relevant for its business and, if it is, the adequacy of the Fund Administrator's existing measures to address that risk. The proposed Guidance provides further detail on what might be covered when considering each risk and Central Bank expectations for management of these risks.

  Respondents suggested that it may be more appropriate to specify the list of risks in guidance. Respondents also noted that the list of risks was not fully aligned with the risks referred to in the Central Bank's PRISM Guidelines.

  In its response, the Central Bank set out that it is their intention that the list of risks in Regulation 101 will represent a minimum list of risks which should be addressed and Fund Administrators should consider all risks that are relevant in the context of their individual business models and consider how they may impact on their capital and liquidity adequacy.

  The Central Bank considers that Fund Administrators can use their own risk taxonomies for the risk assessment and capital planning process, provided they can demonstrate that they have:

  a) Assessed the relevancy of all of the risks listed in Regulation 101;

  b) Determined which risks are material to their individual business models; and

  c) Established processes and procedures to mitigate these risks in accordance with the Proposed Regulations and Guidance.

The Central Bank acknowledges that liquidity risk may be considered a low risk for some Fund Administrators. However, the Central Bank notes that an operational or environmental event may cause the liquidity position of a firm to change rapidly and therefore, the Central Bank believes that liquidity monitoring should be undertaken by all Fund Administrators.

- **Wind-down Plans –** Respondents also commented on the proposal in Regulation 100 that a Fund Administrator is required to draw up a plan setting out how it would wind down in an orderly fashion in the event of failure. Two respondents considered this to be more appropriate to systemic institutions such as banks rather than Fund Administrators. One respondent asked for clarity on the expected outcome of the requirement to prepare wind-down plans and questioned the appropriateness of this requirement being introduced as part of an initiative with respect to capital planning. It was suggested that a working group would be helpful to further define this requirement. Another respondent suggested that the requirement for Fund Administrators to prepare wind-down plans be considered on a risk based approach.

  In its response, the Central Bank aims to be proactive rather than reactive in dealing with wind down situations and is aiming to ensure a consistency of approach across Fund Administrators. The Central Bank is aware that many Fund Administrators are part of larger group structures and recognise that they may be able to leverage off group infrastructure and support in various situations. However, the Central Bank considers that Fund Administrators cannot exclusively rely on group support when considering wind-down planning. Any assumptions in terms of group support should be clearly stated in various wind-down scenarios and consideration should be given as to the likelihood of a scenario where group support may not be available.

- **Other feedback –** In the feedback to CP100 the Central Bank received a number of other comments that were not in response to a particular question. In response to such comments, the Central Bank:

  - Emphasises that firms must be able to make an assessment of all risks listed in Regulation 101 in the first instance. If the Fund Administrator makes an assessment that a particular risk is not relevant then the Fund Administrator may make a determination that no further action is needed;
  - Notes that paragraph II of the Draft Guidance Note makes it clear that appropriate testing and scenario analysis applies to larger, more complex fund administrators; and
  - Acknowledges the respondent's submission in relation to the requirement to reconcile internal capital and own funds and intends to remove this reconciliation requirement.

The Feedback Statement is available at the following link:

https://www.centralbank.ie/regulation/poldocs/consultation-papers/Documents/CP100%20Consultation%20on%20Risk%20Assessment%20and%20C

apital%20Planning%20for%20Fund%20Administrators/CP100%20Feedback%20Statement.pdf

(ii) Central Bank publishes feedback statement on CP 101

On 4 July 2016, the Central Bank published a feedback statement (the "**Feedback Statement**") on its Consultation Paper on a Capital Requirement Framework for Market Operators ("**CP 101**"). CP 101 relates to the introduction of a risk based capital requirement to apply to market operators in Ireland. The closing date for comments to CP 101 was May 2016 and in total one response was received.

- **Proposal to establish a capital requirement framework ("CRF") for market operators** – The respondent and the Central Bank agreed that ensuring adequate capital based on individually identified and assessed risks and ensuring adequate capital to facilitate an orderly wind down are two key components of an appropriate capital regime for market operators. The Central Bank considers that six months operating costs is an appropriate quantitative minimum for the level of capital required and this is reflected in the proposed CRF as the "basic capital requirement" which is defined as the higher of six months operating expenses or the Market Operator Risk and Capital Adequacy Assessment Process (the "**MORCAAP**") figure. The MORCAAP represents the sum of the capital required for individually identified and assessed risks in stressed market conditions and the capital required for an orderly wind down. The assessment of the capital required for an orderly wind down under the MORCAAP is a bespoke assessment that should take into account the individual characteristics of a market operator's business model and may result in a figure that is higher or lower than six months operating costs.

- **Proposal to encompass a risk governance element and a risk based assessment in the CRF** – The respondent commented that there should be greater cognisance of an individual market operator's business model when assessing relevant risks and disagreed with the proposed method of calculating the MORCAAP figure commenting that it would result in an excessive and disproportionately high capital requirement amount. Finally, with regard to recovery and resolution plans, the respondent noted that elements of these requirements were more appropriate to the banking sector.

  The Central Bank clarified that the MORCAAP is an assessment that is specific to each market operator's business model and that it is for the particular market operator to determine the specific risks that are relevant to its business, to model appropriate stressed scenarios and to determine the amount of capital that it considers appropriate to hold against those risks. In terms of the requirement under the MORCAAP to estimate the amount of capital required to support an orderly wind down, the Central Bank commented that this is a bespoke assessment taking into account the individual characteristics of the market operator's business model and considering specific events which may cause the market operator to fail. This assessment may result in a capital requirement that is higher or lower than six months operating costs. The assessment should be based on robust assumptions and the market operator should be able to provide strong justification for the assumptions used.

In relation to the requirement under the MORCAAP that the amount of capital required to achieve an orderly wind down is added to the amount of capital required to cover business risks, the Central Bank highlighted that, while these are independent assessments – one assessment entailing a consideration of the impact of stressed market conditions on a market operator's capital position and the other assessment entailing a consideration of the capital required to wind down in an orderly fashion – the Central Bank considers that in reality a wind down scenario is unlikely to occur outside of a stressed scenario that results in the materialisation of other risks and losses. Given the reliance of other market participants on market operators, the Central Bank comments that it is critical that capital required for an orderly wind down still be available after a stressed event has occurred. Therefore, the Central Bank considers it appropriate to combine these two amounts and does not view this as a double counting of the capital that is required.

With respect to the comments made on the requirement to prepare recovery and resolution plans, the Central Bank agreed with the respondent that the approach taken should be individual to each market operator and clarified that this is the intention set out in CP 101. The plans prepared should be specific to each individual market operator, taking into account its capital structure and its business model. The level of detail and complexity required of such plans should depend on the complexity of the market operator's business model and on the reliance of other financial market participants on the market operator.

A copy of the Feedback Statement is available at the link below:

http://www.centralbank.ie/regulation/poldocs/consultation-papers/Documents/CP101%20Consultation%20on%20a%20Capital%20Requirement%20Framework%20for%20Market%20Operators/CP101%20Feedback%20Statement.pdf

A copy of CP 101 is may be accessed via the following link:

https://www.centralbank.ie/regulation/marketsupdate/Documents/CP101%20Consultation%20on%20a%20Capital%20Requirement%20Framework%20for%20Market%20Operators.pdf

(iii) Central Bank publishes Guidance Note on Completing an Application for Authorisation as a Retail Intermediary

On 5 July 2016, the Central Bank issued an updated guidance note on completing an application for authorisation as a retail intermediary in Ireland under the European Communities (Insurance Mediation) Regulations 2005 ("**IMR**"); the Investment Intermediaries Act 1995 ("**IIA**"); the Consumer Credit Act 1995 ("**CCA**") and the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 ("**CMCAR**") (the "**Guidance Note**").

To obtain an authorisation as a retail intermediary firm, an application must be submitted to the Central Bank which demonstrates that the applicant is in a position to comply with the appropriate regulatory requirements.

The Guidance Note sets out the criteria for assessing applicants, how to make an application and detailed guidance on completing the application form. The Appendix to the Guidance Note provides details on the headings to be covered in the Business Plan and Programme of Operations.

The Guidance Note can be accessed via the following link:

https://www.centralbank.ie/regulation/industry-sectors/retailintermediaries/Documents/230316%20Guidance%20Note%20for%20Completing%20an%20Application%20form.pdf

(iv) Central Bank publishes discussion paper on the payment of commission to intermediaries

On 26 July 2016, the Central Bank published a Discussion Paper on the Payment of Commission to Intermediaries (the "**Discussion Paper**"). The purpose of the Discussion Paper is to build on the Central Bank's Guidelines on the Variable Remuneration Arrangements for Sales Staff issued in July 2014 and to obtain feedback from interested parties on the risks and benefits to consumers of insurance companies, banks and other financial firms paying commissions to intermediaries who distribute their financial products.

The Discussion Paper is open for comment until 18 October 2016 and the Central Bank has invited comments from consumers, financial entities, non-financial corporates, financial advisors, academics and researchers and intermediaries.

A copy of the Discussion Paper is available at the link below:

https://www.centralbank.ie/regulation/processes/consumer-protection-code/compliance-monitoring/Documents/Discussion%20Paper%20on%20Payment%20of%20Commission%20to%20Intermediaries.pdf

(v) Central Bank publishes results of survey on foreign-exchange contracts and OTC interest rate derivatives market in Ireland

On 1 September 2016, the Central Bank of Ireland published the results of the triennial survey on foreign exchange and interest-rate derivatives market activity in Ireland. The results form part of a global survey carried out by the Bank for International Settlements conducted in April 2016.

The key findings of the survey are:

- There was a substantial decline in the average daily turnover of both foreign-exchange contracts and interest-rate derivatives in Ireland between 2013 and 2016;

- In terms of foreign-exchange contracts, average daily turnover declined in Ireland from $10.3 billion a day in April 2013 to $2.2 billion per day in April 2016. This is a decline of 78 per cent, unadjusted for exchange rate movement;

- For interest-rate derivatives, average daily turnover fell in Ireland from $2.9 billion in April 2013 to $1.1 billion per day in April 2016. This is a decline of 63 per cent, unadjusted for exchange rate movements;

- The global results show that trading in foreign-exchange markets averaged $5.1 trillion per day in April 2016, down from $5.4 trillion in April 2013;

- The global results also show that daily turnover in OTC interest-rate derivatives averaged $2.7 trillion in April 2016, and this was an increase from $2.3 trillion in April 2013; and

- Ireland ranked 46th globally in April 2016 in terms of turnover of foreign-exchange contracts, down from 33rd in April 2013. In terms of interest-rate derivatives, Ireland ranked 28th globally in April 2016, down from 23rd in 2013.

The Irish results may be accessed via the link below:

http://www.centralbank.ie/polstats/stats/Pages/bissurvey.aspx

The global results may be accessed via the following link:

http://www.bis.org/publ/rpfx16.htm

(vi) Central Bank publishes letter to industry following themed inspection of the Irish structured retail product industry

On 1 September 2016, the Central Bank published a letter to industry following its themed inspection of structured retail products in MiFID authorised investment and stockbroking firms and credit institutions (the **"Letter"**). The themed inspection follows the Central Bank's Consumer Protection Outlook Report, published in February 2016.

The themed inspection identified that there has been a move away from capital protected deposit-based products towards more complex, capital at risk products and that the Irish market consists mainly of two types of structured retail products – deposit-based structured retail products and note-based structured retail products.

The themed inspection identified a number of areas of concern, namely:

- **Weak Product Governance Arrangements –** Firms' product governance arrangements were reviewed against the good practices set out in ESMA's Opinion on Good Practices for Product Governance Arrangements in relation to Structured Retail Products and ESMA's Opinion on MiFID Practices for Firms Selling Complex Products. The inspection identified weaknesses in the following areas:

(i) Quality of policies and procedures;

(ii) Target market identification;

(iii) Product testing;

(iv) Counterparty due diligence;

(v) Training of distributors; and

(vi) Review process

Further details on these findings and good practices identified are set out in Appendices 2 and 3 of the Letter.

A product performance comparison was also carried out and identified that over half of the structured retail products that matured in 2014 and 2015 underperformed against NTMA State Savings Products, suggesting that, in some circumstances, a less complex product may meet the consumer's needs and reinforces the need for firms to have strong product governance arrangements in place, particularly in relation to product testing, to ensure that they are delivering fair outcomes for consumers.

- **Credit linked notes being sold to retail clients** – The Central Bank identified a particular type of structured retail product being sold to retail clients which combines a note with a derivative, in the form of a credit default swap. Capital protection and income from these products are generally conditional upon the creditworthiness of multiple counterparties, namely an issuer and one or more reference entities.

  The Central Bank considers these products to be particularly complex and risky given the layers of credit risk involved and the potential for a consumer to lose their full investment. The Central Bank is also concerned that such risks are not being adequately highlighted to consumers.

- **Capital Protected/Protection** – In the context of firms' regulatory disclosure requirements, the term 'capital protection' or 'capital protected' is deemed to be relevant material information to be disclosed to consumers. However, the use of such terminology can create a perception of safety which may not be consistent with the product's features and risks.

  The inspection identified various types of structured retail products being marketed as capital protected, however, this varies depending on the set up of the product. In order to provide information to a consumer that is fair, clear and not misleading, the Central Bank expects firms, for any products where capital is at risk, to include capital at risk warnings in a prominent position on all information to clients. This includes, but is not limited to, brochure cover page, key features documents, webpages and other marketing materials.

The Central Bank highlights that firms should be aware of forthcoming EU legislation (namely the PRIIPs KID Regulation and MiFID II) which will impose more detailed requirements on manufacturing and distributing structured financial products and other financial instruments.

The Central Bank states that all firms are required to immediately consider the issues identified in the Letter and take any remedial actions necessary. The Central Bank also expects that the Letter is presented, discussed and minuted at the next meeting of the board of directors.

A copy of the Letter is available at the following link:

https://www.centralbank.ie/regulation/industry-sectors/investment-firms/Documents/Industry%20Letter%20-%20Structured%20Retail%20Products%20Themed%20Inspection%20-%2001%20September%202016.pdf

(vii) Central Bank issues letter regarding directors' time commitments thematic review

On 8 September 2016, the Central Bank issued a letter to all fund service providers and fund boards on the Review of the Number of Directorships held by Individuals within the Investment Funds Industry (the "**Letter**") which provides an update on the director time commitments thematic review carried out in 2015 (the "**2015 Review**"). Extensive engagement with directors following the 2015 Review has delivered significant progress in reducing concentrations of directorships.

The Letter noted that the 2015 Review highlighted the need for a further, detailed analysis of the sub-funds within a director's portfolio. The Central Bank conducted an analysis of directors' time commitments on a sub-fund by sub-fund basis in order to determine the impact of sub-fund complexity on directors' time commitments and if directors were allocating sufficient time in order to fulfil their obligations. Following this analysis, the Central Bank found that the amount of time allocated annually to sub-funds across the population of directors varied significantly from 2 hours to 11 hours per sub-fund, noting a number of factors which impacted the time allocation required for each sub-fund.

The Central Bank considers the responsibilities associated with high numbers of sub-funds to be significant and, in addition to guidance already issued, highlighted the following areas for directors to consider when reviewing their capacity to fulfil their directorship roles:

- Ensure that the documentation received is sufficiently detailed and provides the necessary sub-fund information to perform the role of director;
- Sub-fund numbers must be evaluated when conducting portfolio planning and assessing future directorships; and
- The nature of the sub-fund and level of sub-fund monitoring must be carefully considered and included in overall time capacity.

In respect of continued engagement, the Central Bank noted that where it assesses that an individual director has aggregate professional time commitment in excess of 2,000 hours a

year, including commitments to at least 20 fund boards, the Central Bank would deem that individual to be at a high risk of not being able to fulfil their board roles to an appropriate standard and, by implication, that there is a high risk to the quality of performance of those Boards where the individual is a director.

A Q&A published on the Central Bank's website clarifies that the "20" directorships number refers only to Irish authorised investment funds and Irish authorised fund management companies (UCITS management companies, AIFM and AIF management companies) directorships.

As boards and individual directors are responsible for compliance with all regulatory obligations and related guidance, the Central Bank noted that each board should review their current composition, taking the guidance into account, to ensure, that each director appointed has sufficient time allocated to their role. In addition to this, the numbers of directorships held should be at an acceptable and manageable level.

A copy of the Letter can be found at the following link:

http://www.centralbank.ie/regulation/industry-sectors/funds/Documents/Director Time Commitments Industry Letter.pdf

(viii) Central Bank issues Guidance on Information Technology and Cybersecurity Risks

Following several inspections, thematic reviews and ongoing supervisory engagements throughout the course of 2015 and 2016, the Central Bank published on September 13, 2016 Cross Industry Guidance in respect of Information Technology and Cybersecurity Risks (the **"Guidance"**).

The Guidance applies to all regulated firms in Ireland and follows a Central Bank letter to industry in September 2015 which communicated the results of its thematic inspection in relation to cybersecurity and the related operational risks across investment firms, fund service providers and stockbrokers.

The Guidance highlights that, based on the Central Bank's supervisory experience to date, firms are not implementing sufficiently robust IT systems and controls and must increase their capability to deal with IT failures and cybersecurity incidents in order to minimise any potential impact on their business and reputation.

For most firms in the financial services sector, IT is a core aspect of the functioning of the business, with most (if not all) key functions supported or run by IT. The Central Bank highlights a number of inadequate practices, namely a lack of prioritisation, a lack of awareness and a lack of understanding of IT and cybersecurity related risks and point out that more attention is required at both senior management and Board level to ensure that these risks are managed effectively. The Central Bank also identifies a number of recommended practices covering:

- **Board of Directors and Senior Management Oversight of IT and Cybersecurity Risk –** The Central Bank expects firms to develop and document a comprehensive Board approved IT strategy which is aligned with the overall business strategy with

sufficient staff and financial resources allocated to the strategy to ensure it can be executed efficiently. The Guidance emphasises the need for the Board to receive updates on key IT issues, including major IT projects, IT priorities and significant IT incidents as well as regular reports on key IT risks.

- **IT Specific Governance –** The Central Bank recommends that firms should ensure that documented policies, standards and procedures which address the identification, monitoring, mitigation and reporting of firms' IT related risks are in place and that the roles and responsibilities in managing IT risks are clearly defined, documented and communicated to relevant staff. In addition, a sufficiently senior person in the firm should be appointed with responsibility for IT and cybersecurity matters. The Central Bank recommends that these policies and procedures are reviewed and updated on a regular basis.

- **IT Risk Management Framework –** The Central Bank expects that firms develop, implement, maintain and communicate an IT risk management framework, which should facilitate a comprehensive review of IT risks, encompassing risk identification, assessment, monitoring and testing of its effectiveness and set out staff and senior management responsibilities and accountability. The Guidance provides that risk assessments should be carried out on a regular basis, considering both internal and external sources of risk and firms should maintain an inventory of all IT assets within the firm.

- **Disaster Recovery and Business Continuity Planning –** One of the issues raised by the Guidance is that a high reliance on IT for critical business operations exposes firms to the risk of severe disruption. Firms should ensure that documented disaster recovery and business continuity plans are in place and that sufficient resources are provided to support effective planning, testing and execution of same. The Central Bank expects that the Board is provided with updates on the various scenarios considered and the development and testing of the disaster recovery and business continuity plans.

- **IT Change Management –** The Guidance outlines that firms are expected to have in place adequate systems to manage the change/upgrade/replacement of IT systems, including having approval requirements in place.

- **Cybersecurity –** Firms are required to have in place a documented strategy to address cyber risk, which is reviewed and approved at Board level. The Central Bank recommends that training programmes are implemented to enable staff to identify good IT security practices, common threat types and familiarise themselves with the firm's policies and procedures regarding the appropriate use of applications, systems and networks. The Central Bank provides that, at a minimum, cyber risk management should address the identification, prevention and detection of security events, threats and incidents, security incident handling and recovery planning after an incident. Firms should also have in place a documented cybersecurity incident response plan which provides a roadmap for the actions the firm will take during and after a security incident. The Central Bank should be notified in circumstances where a cybersecurity incident has a significant adverse

effect on the firm's ability to provide adequate services to its customers, its reputation or its financial condition.

- **Outsourcing of IT Systems and Services –** The Central Bank expects firms to conduct thorough due diligence on any potential service providers, to include consideration of their technical capabilities, performance track record, financial strength and viability, service quality and reliability. In circumstances where any IT services are outsourced, the contract between the firm and the service provider should include a Service Level Agreement detailing sufficiently robust provisions in relation to security, service availability, performance metrics and penalties. The Guidance also outlines the requirement to have in place an exit management strategy to reduce the risk of disruption in the event that key outsourced IT services are unexpectedly withdrawn by the service provider or terminated by the firm.

For a copy of the Guidance in full see the following link:

http://www.centralbank.ie/publications/Documents/Cross%20Industry%20Guidance%20Information%20Technology%20Cybersecurity%20Risks.pdf

An article prepared by Dillon Eustace on the Guidelines is available at the following link:

http://www.dilloneustace.com/download/1/Publications/Regulatory%20and%20Compliance/Central%20Bank%20publishes%20Cross%20Industry%20Guidance%20in%20respect%20of%20Information%20Technology%20and%20Cybersecurity%20Risks.pdf

(ix) Central Bank publishes statistical release for investment funds

On 22 September 2016, the Central Bank published a statistical release for investment funds for the second quarter of 2016. The following key points were highlighted in the statistical release;

- The net asset value of investment funds resident in Ireland increased by 4.3% (€61 billion) over the second quarter of 2016, reaching €1,457 billion;

- The second quarter saw strong investor inflows to investment funds, amounting to €22 billion, continuing the general trend of recent quarters. Portfolio revaluations were positive, at €39 billion, reflected in both debt and equity holdings;

- The value of total assets held by investment funds increased by €12 billion to €1,784 billion, amid strong inflows from investors and positive revaluations, although this was somewhat offset by the effect of a data reclassification; and

- A strong second quarter for global equity markets saw positive revaluations of €11 billion in the equity holdings of investment funds despite global equity and currency market fluctuations late in the quarter following the Brexit vote.

A copy of the Statistical Release is available at the following link:

http://www.centralbank.ie/press-area/press-releases/Pages/InvestmentFunds-Q22016.aspx

(x) Central Bank to investigate firms' compliance with pre-approved control functions

On 30 September 2016, in the fourth edition of the Intermediary Times, the Central Bank announced its intention to investigate regulated financial service providers' compliance with their obligations under section 21 of the Central Bank Reform Act 2010 and the Central Bank's Guidance on Fitness and Probity Standards (the **"Guidance"**).

The Guidance required regulated financial service providers submit to the Central Bank by 31 December 2011, a list of employees performing pre-approval controlled functions ("**PCFs**") as of 1 December 2011. The Central Bank notes that that a number of firms did not comply with this obligation by failing to submit to the Central Bank a list of employees performing PCFs as of 1 December 2011.

Additionally, the Central Bank advises that there is an on-going obligation for the purposes of Section 21 of the Central Bank Reform Act 2010, whereby an Annual PCF Confirmation Return (the **"Annual PCF Return"**) is required to be submitted for all PCF holders. The purpose of this return is to confirm that all PCF holders are compliant with the Central Bank's Fitness and Probity Standards and they continue to agree to abide by the Standards.

During October and November 2016, the Central Bank intends to engage with firms which have failed to comply with these obligations.

A copy of the Intermediary Times is available at the following link:

http://www.centralbank.ie/regulation/industry-sectors/retailintermediaries/Documents/September%20Edition.pdf

Anti-Money Laundering/Counter-Terrorist Financing

(i) European Commission publishes proposal for a Directive amending MLD4

On 5 July 2016, the European Commission published its legislative proposal for a Directive amending the Fourth Money Laundering Directive ((EU) 2015/849) (**"MLD4"**), along with a questions and answers document (the **"Proposal"**). The Commission also published a factsheet on the proposed Directive coupled with an impact assessment.

The Proposal has been drafted in response to the growing threat of terrorism within the EU, as well as in an attempt to enhance transparency within the global financial system – a particularly relevant consideration in light of concerns arising from the "Panama Papers" mass data leak.

The measures contained in the Proposal were developed in connection with the European Commission's February 2016 Action Plan for strengthening the fight against terrorist financing.

The aim of the Proposal is to complement the existing EU preventative legal framework by setting out additional measures to better counter the financing of terrorism and to ensure increased transparency for financial transactions and legal entities.

The Proposal contains a number of amendments to MLD4, including in relation to the disclosure of beneficial ownership information, the information request powers available to Financial Intelligence Units (**"FIUs"**), and the enhanced due diligence measures (**"EDD"**) applicable to entities based in high-risk third countries. In a number of cases, the proposed amendments introduce EU-wide requirements in areas where similar domestic steps have already been taken in one or more Member States.

However, one of the most significant details of the Proposal is the proposed change to the implementation date for MLD4. Under the original draft, Member States were required to implement the laws, regulations and administrative provisions necessary to comply with MLD4 by 26 June 2017. However, if the Proposal is approved, this implementation date will be brought forward to 1 January 2017, meaning that Member States will have a very short timeframe to ensure that the requirements of MLD4, including those proposed amendments and additions contained in the Proposal, are implemented in full. However given a large number of Member States have expressed concerns about this timetable, it is likely that this date will be changed.

The Proposal has been passed to the European Parliament and Council for consideration. The Council held a preliminary exchange of views on the Proposal at an Economic and Financial Affairs Council meeting on 12 July 2016 where it was agreed to commence technical work on the Proposal. It is understood that the Proposal is currently at the preparatory phase in the European Parliament.

A copy of the Proposal is available at the following link:

http://ec.europa.eu/justice/criminal/document/files/aml-directive_en.pdf

(ii) Commission Delegated Regulation (EU) 2016/1675 identifying high-risk third countries with strategic deficiencies was published in the Official Journal of the EU

On 20 September 2016, Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing MLD4 by identifying high-risk third countries with strategic deficiencies was published in the Official Journal of the EU (the **"Delegated Regulation"**).

The Delegated Regulation sets out the list of third-country jurisdictions, as identified by the European Commission using the non-exhaustive list of criteria set out in Article 9 of MLD4, which have strategic deficiencies in their anti-money laundering and countering the financing of terrorism regimes that pose significant threats to the financial system of the European Union ("**high-risk third countries"**).

Under Article 18(1) of MLD4, firms are required to apply enhanced due diligence measures (**"EDD"**) when establishing business relationships or carrying out transactions with natural persons or legal entities established in high-risk third countries.

In making its assessments, the European Commission checked data against various globally-recognised benchmarks, including materials produced by the Financial Action Task Force (**"FATF"**). The European Commission explains that its intention in adopting the Delegated Regulation is to reflect in EU law a listings process similar to that carried out by the FATF. However, it remains free to differ from the FATF list, for example, by including countries that are not listed by the FATF. It did not consult on the list, as it corresponds to the agreed international list.

The European Commission advised that the fundamental nature of the list is not to apply a "name and shame" approach. Rather, it is designed to indicate the countries with which the EU is determined to maintain and intensify a dialogue, with a view to removing the identified deficiencies. The objective is not to limit the economic or financial relations with listed countries. On the contrary, it considers that the list will contribute to increasing the confidence of firms dealing with the listed countries by ensuring the application of appropriate controls.

In a related press release, the European Commission states that it intends to review the list at least three times each year (after each FATF meeting), assessing the latest developments in high-risk jurisdictions.

The Delegated Regulation entered into force on 23 September 2016.

A copy of the Delegated Regulation may be accessed via the following link:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1675

(iii) EBA publishes opinion on European Commission proposal to bring virtual currencies within the scope of MLD4

On 11 August 2016, the EBA published its opinion on the European Commission's proposal to bring virtual currency exchange platforms and custodian wallet providers within the scope of MLD4 (the "**Opinion**"). The EBA believes that this will be an important step to mitigate risks of money laundering and terrorist financing that arise from the use of virtual currencies. However, it adds that clarifications to the European Commission's proposals are needed and that NCAs across the EU should be equipped with the appropriate tools to be able to effectively supervise the proposed requirements.

The EBA's recommendations include:

- Implementation deadlines for the proposed amendments should be set in a way that facilitates their consistent implementation across the EU, and in a way that enables competent authorities to exchange information more easily and efficiently;

- National sanction powers as proposed in the European Commission's amendments to MLD4 should be retained, while transactions in virtual currencies should remain outside of the scope of the Payment Services Directive (2007/64/EC); and

- Measures should be taken to clarify the regulatory status of virtual exchange platforms and custodian wallet providers to avoid risk of misrepresentation, including whether these entities should be allowed to carry out regulated financial activities at the same time as carrying out virtual currency transactions.

A copy of the Opinion is available at the following link:

http://www.eba.europa.eu/documents/10180/1547217/EBA+Opinion+on+the+Commission%E2%80%99s+proposal+to+bring+virtual+currency+entities+into+the+scope+of+4AMLD

Data Protection

(i) Cyber-Security Directive published in the Official Journal of the EU

On 19 July 2016, the text of the Directive concerning measures for a high common level of security of network and information systems across the Union ((EU) 2016/1148) (the "**Cyber-Security Directive**") was published in the Official Journal of the EU and entered into force on 8 August 2016.

Among other things, the Cyber-Security Directive establishes security and notification requirements for "operators of essential services" and "digital service providers", which includes certain entities in the banking and financial market infrastructure sub-sectors that meet criteria set out in Article 5(2) of the Cyber-Security Directive.

Member States are required to identify the operators of essential services within an establishment on their territory by 9 November 2018, and to review and update their list at least every two years after 9 May 2018.

Member States are required to adopt national measures to transpose the requirements of the Cyber-Security Directive into national law by 10 May 2018.

A copy of the text of the Cyber-Security Directive is available at the following link:

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L1148&from=EN

(ii) EU-US Privacy Shield enters into force

On 12 July 2016, the European Commission published Commission Implementing Decision on the adequacy of the protection provided by the EU-US Privacy Shield (the "**Implementing Decision**") formally adopting the new framework for EU-US data transfers.

The Privacy Shield acts as a replacement for the EU-US Safe Harbour regime which was declared invalid by the Court of Justice of the EU on 6 October 2015. The aim of the Privacy Shield is to protect the fundamental rights of individuals whose data is transferred to the US and to provide legal certainty for businesses. The European Commission stated that the new framework will impose stronger obligations on companies in the US to protect the personal data of individuals and provides for stronger monitoring of and enforcement against participating companies by US authorities. Additionally, EU concerns regarding US

surveillance have been addressed through commitments and written assurances made by US authorities and by reforms in US surveillance laws.

Some of the key features of the Privacy Shield are:

- **Obligations on companies** – the Privacy Shield imposes strict obligations on companies transferring EU citizens' data to the US and contains effective supervision mechanisms to ensure that companies respect their obligations, including sanctions or exclusion if they do not comply. The new rules also include tightened conditions for onward transfers to other partners by any companies participating in the scheme;

- **Clear safeguards and transparency obligations on U.S. government access** – the US government has given the EU written assurance from the Office of the Director of National Intelligence that any access of public authorities for national security purposes will be subject to clear limitations, safeguards and oversight mechanisms, preventing generalised access to personal data. Additionally, the US has committed to establishing an Ombudsperson to deal with complaints from individuals if they fear that their personal information has been used unlawfully by US authorities in the area of national security;

- **Effective protection of EU citizens' rights with several redress possibilities** – the Privacy Shield offers a number of redress mechanisms for any individual who considers that their personal data has been misused; and

- **Annual joint review mechanism** – the mechanism will monitor the functioning of the Privacy Shield, including the commitments and assurance as regards access to data for law enforcement and national security purposes. The European Commission and the US Department of Commerce will conduct the review and associate national intelligence experts from the US and European Data Protection Authorities.

The European Commission also published a fact sheet and a questions and answers document (the "**Q&A**") on the application of the Privacy Shield.

The Q&A explains the role of the newly created Ombudsperson, written commitments and assurance by the US that any access by public authorities to personal data transferred under the new arrangement on national security grounds will be subject to clear conditions, limitations and oversight, preventing generalised access.

The Q&A also addresses issues such as the regular review of the adequacy decisions process under the Privacy Shield, as well as the limitations for access to personal data for national security purposes and how individual complaints will be handled and resolved.

A copy of the Implementing Decision is available at the following link:

http://ec.europa.eu/justice/data-protection/files/privacy-shield-adequacy-decision_en.pdf

(iii) Data Protection Office issues Guidance on Anonymisation and Pseudonymisation

On 13 September 2016, the Data Protection Office issued a Guidance Note on Anonymisation and Pseudonymisation (the **"Guidance Note"**) in respect of personal data.

Given that European citizens have a fundamental right to privacy, the Data Protection Office notes the importance of organisations, which process personal data, being cognisant of this right. The Data Protection Office states that, when carried out effectively, anonymisation and pseudonymisation can be used to protect the privacy rights of individual data subjects and allow organisations to balance this right to privacy against their legitimate goals. In issuing this Guidance Note, the Data Protection Office aims to give guidance on using these techniques.

Some of the key points in the Guidance Note include the following:

- Irreversibly and effectively anonymised data ceases to be "personal data" and the data protection principles do not have to be complied with in respect of such data;
- Pseudonymised data remains personal data;
- If source data is not deleted at the same time that the anonymised data is prepared, the anonymised data will still be considered "personal data", subject to the Data Protection Acts, where the source data could be used to identify an individual from the anonymised data; and
- Data can be considered "anonymised" from a data protection perspective when data subjects are not identified, having regard to all methods reasonably likely to be used by the data controller or any other person to identify the data subject.

The Guidance Note can be found at the following link:

https://dataprotection.ie/viewdoc.asp?DocID=1594&ad=1

Companies Act 2014

(i) Conversion under the Companies Act

Under the Companies Act, all existing private companies limited by shares have the option of converting to one of the new company types (LTD or DAC) during a transition period which ends on 30 November 2016. Companies that have not applied to the CRO to be converted either to a DAC or a LTD during the transition period will be automatically converted to an LTD by the CRO after 1 December 2016.

Companies wishing to be converted to a DAC must, under the Companies Act, have passed an ordinary resolution to convert by 31 August 2016 and should have filed a Form N2 and amended Constitution with the CRO thereafter. Companies wishing to convert to an LTD and adopt a new Constitution should do so as soon as possible, as the CRO cannot

guarantee that applications received at the very end of the transition period will be processed before 30 November 2016.

Directors of companies wishing to be converted to a new company type are therefore requested to consider this matter at the earliest opportunity and to file your conversion applications with the CRO in good time.

(ii) Directors' Compliance Statement under the Companies Act – Impact on a UCITS plc and Fund Service Providers

The Companies Act which consolidated existing company law re-introduced the company law obligation on directors to make an annual compliance statement in their directors' report. The statement must acknowledge that the directors are responsible for securing the company's compliance with its 'relevant obligations' and confirm that certain things have been done, or if they have not been done, provide a reason why.

This directors' compliance statement requirement under the Companies Act will apply to PLCs and 'large' private companies limited by shares, designated activity companies and guarantee companies which have a balance sheet total exceeding €12.5 million and a turnover exceeding €25 million. These prescribed thresholds are applied on an individual company basis.

Currently the Companies Act also does not exempt a UCITS plc from the requirement to prepare a Directors' Compliance Statement. It remains unsure whether the Minister for Jobs, Enterprise and Innovation (the "**Minister**") will exempt corporate UCITS from the requirement under his powers pursuant to section 943(1) (g) of the Companies Act.

Directors of the following companies will be obliged to sign a compliance statement and include this in their directors' report for years ending on or after 31 May 2016:

- Public limited companies (**"plc"**); and
- 'Large' private companies limited by shares, designated activity companies and guarantee companies which have a balance sheet total exceeding €12.5 million and a turnover exceeding €25 million. The prescribed thresholds are applied on an individual company basis as opposed to a group basis.

While section 1387(3) of the Act serves to exempt funds structured as investment companies that are incorporated under Part 24 of the Companies Act from the requirement to provide a directors' compliance statement, it should be noted that the expression investment company is defined in Part 24 as meaning inter alia a plc not being a company to which the UCITS Regulations apply.

Consequently the Companies Act does not exempt a UCITS plc from the requirement to prepare a directors' compliance statement. Initially it had been anticipated that the Minister for Jobs, Enterprise and Innovation (the **"Minister"**) would exempt corporate UCITS from the requirement by virtue of the powers entrusted in him pursuant to section 943(1)(g) of the Act. However, notwithstanding a submission made in August 2016 to the Department

for Jobs, Enterprise and Innovation, it is not certain at this time whether the Minister will grant such an exemption. Consequently a UCITS plc is currently required to prepare a directors' compliance statement in accordance with the Act.

Separately it should be noted that where a corporate fund has established a wholly owned Irish subsidiary that is a qualifying company within the meaning of Section 110 of the Taxes Consolidation Act 1997 (as amended) ("**SPV**"), the SPV may be obliged to prepare a directors' compliance statement where it meets the threshold of a 'large private company'. Although the Minister also has the power under Section 943(1)(g) of the Companies Act to exempt an SPV from the requirement to produce a directors' compliance statement, no exemption has been granted to date.

In light of the fact that the requirement to prepare a directors' compliance statement will apply to years ending on or after 31 May 2016, we recommend that the directors of a UCITS plc and an SPV (where such an SPV meets the threshold of a 'large private company') take the necessary steps to comply with the requirement to produce a directors' compliance statement.

Directors of an Irish fund service provider company, such as an administrator, a depositary, an alternative fund manager or a fund management company, which meets the threshold of a 'large private company' will also be required to prepare a directors' compliance statement in accordance with the Companies Act.

It is recommended that the directors of an UCITS plc and a SPV, where the threshold of a 'large private company' is met, take the necessary steps to comply with the requirement to produce a directors' compliance statement.

Dillon Eustace has issued a publication relating to directors' compliance statements under the Companies Act, a copy of which is available at the following link:

http://www.dilloneustace.ie/download/1/Publications/Regulatory%20and%20Compliance/Directors%20Compliance%20Statement%20under%20the%20Companies%20Act%202014%20Impact%20on%20a%20UCITS%20plc%20and%20Fund%20Service%20Providers.pdf

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