



## July 2020

### MiFID Firms required to review compliance with appropriateness requirements

On 29 June the Central Bank of Ireland (**Central Bank**) published a press release along with an industry letter (**Letter**) setting out its findings from its recently undertaken thematic inspection of MiFID firms' compliance with their requirement to assess whether a product is appropriate for a client and to issue a warning to the client where it is not.

The Central Bank's inspection was undertaken as part of a European Securities and Markets Authority (**ESMA**) common supervisory action designed to enhance the protection of consumers and promote consistent supervision of investment firms throughout the EU.

The Letter emphasises the importance of the correct application of the appropriate assessment by firms in order to ensure the protection of investors who are making investment decisions on complex products without taking investment advice. In the adjoining press release, Gráinne McEvoy, the Director of Consumer Protection stated that: *"The appropriateness test is a key component of consumer protection for people who are using the services of an investment firm ..."*.

The Central Bank found a number of shortcomings in the inspected firms application and consideration of the appropriateness requirements, including:

1. failure to provide evidence that the firm is paying sufficient attention to the application of the appropriateness requirements and/or placing undue reliance upon standardised questionnaires and 'box-ticking' to demonstrate compliance;

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2. weak processes, systems, and controls, resulting in errors and assessments undertaken with incomplete information;
3. employing a blanket approach to gathering client information that fails to consider the significant differences in risk and complexity that occurs between investment products; and
4. inadequate and weak warnings issued where products are found to be inappropriate for clients, including the use of vague, ambiguous language.

The Central Bank has also provided a list of strong and weak practices in place in the firms inspected in the Appendix to the Letter.

### **Actions to be taken**

The Central Bank requires that all firms selling complex products on an execution-only basis to consumers to consider the contents of the Letter and take all remedial action necessary to ensure they are acting in the best interests of consumers.

The Letter states that the Central Bank expects that firms will review the findings set out and appraise whether their own practices need to be revised. Importantly the Letter provides that the findings and issues set out may form part of any Central Bank supervisory engagement in future.

A link to the press release can be found [here](#) and a link to the Letter [here](#).

If you have any queries about the information contained in this article, please contact Keith Waine or Enda McGeever or your usual Dillon Eustace contact.

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