Asset & Wealth Management Regulatory update

Q2 2025

Contents

Updates from the CBI

Consultation Paper: Amendments to the Fitness and Probity Regime (CP160)

In April 2025, the Central Bank of Ireland (CBI) published its consultation paper on amendments to the Fitness and Probity (F&P) Regime. Originally established in 2011, the F&P Regime aims to ensure that individuals in key customer-facing roles within regulated firms are competent, capable, honest, ethical, and financially sound.

Given the significant passage of time since the regime's inception, the Central Bank commissioned an external **review** to evaluate its effectiveness. This review, conducted by Andrea Enria, resulted in twelve recommendations, all of which have been adopted by the CBI. Subsequently, the CBI released a **document** detailing the implementation process for these recommendations. This was followed by the publication of the Consultation Paper, the Gatekeeper Process Manual, and the Guidance on the Standards of Fitness and Probity.

The Consultation Paper specifically addresses concerns related to the need for increased clarity and transparency in supervisory expectations. It also proposes significant changes to the list of Pre-Approval Controlled Functions (PCFs), streamlining the list from 59 to 45 roles by removing sector-specific categorisations and merging similar roles.

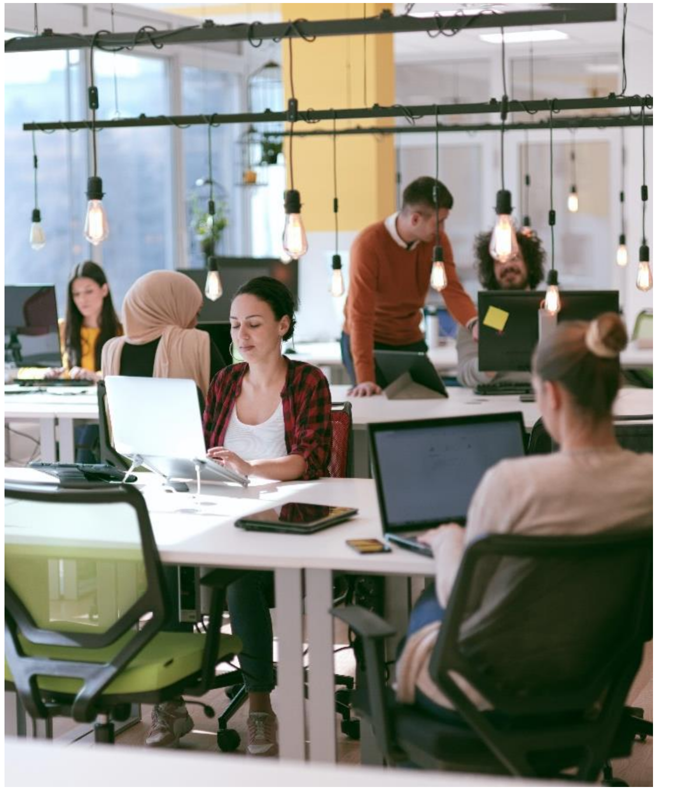
This two-stage review process includes an initial targeted revision followed by a substantive review in 2027, aligned with the Senior Executive Accountability Regime (SEAR).

- **Inherent Responsibilities:** The inherent responsibilities outlined in the draft Guidance are derived from the SEAR Regulations. These responsibilities broadly define relevant roles, and the Central Bank considers them applicable across all sectors.

- **Role Summaries:** The Central Bank highlights the crucial roles of boards, especially NEDs and INEDs, as key governance safeguards. The draft Guidance clarifies these roles and defines independence based on best practices applicable across all sectors. It also outlines expectations for heads of control functions, derived from governance requirements and guidelines.

- **Levels of Experience:** The draft Guidance doesn't specify minimum years of experience due to various factors like firm complexity. It includes high-level expectations and benchmarks, noting ECB thresholds for roles like CEO and Chair. Firms can use these benchmarks as guides, with shorter periods acceptable for smaller firms. Exceptions may apply based on specific circumstances, and firms should consider the quality of an applicant's experience.

- **Qualifications/Time Commitments:** The draft Guidance identifies specific qualifications required or beneficial for certain PCF roles. It also outlines expectations for time commitments based on corporate governance requirements, considering best practices applicable across all sectors.



Draft Guidance on the Standards of Fitness and Probity 2025

In April 2025, the Central Bank of Ireland (CBI) released updated **guidance on the Standards of Fitness and Probity**. This guidance consolidates previous documents into a single comprehensive framework. It provides detailed instructions and expectations for these firms to ensure that individuals in key roles are competent, ethical, and financially sound. The guidance outlines the responsibilities of firms in identifying and assessing Controlled Functions (CFs) and Pre-Approval Controlled Functions (PCFs), conducting due diligence, managing conflicts of interest, and certifying compliance with fitness and probity standards. The overall aim is to help firms implement robust internal policies and procedures to ensure the integrity and stability of the financial system.

Key updates:

- All previous guidance merged into a single, comprehensive document, providing a clear and unified framework for regulated firms.
- High-level expectations for qualifications, experience, and a time commitment are outlined to ensure individuals possess the necessary skills and dedication.
- Specific provisions for identifying, managing and mitigating conflicts of interest to ensure unbiased operation in the best interests of the firm and its customers.
- Emphasis on the importance of board diversity and collective knowledge to enhance decision-making and mitigate groupthink.
- A 10-year lookback period for assessing past events that may impact an individual's fitness and probity, allowing firms to make informed decisions.
- Streamlining the list of Pre-Approval Controlled Functions (PCF's) from 59 to 45 roles by merging similar functions and removing sector-specific categorisations.
- Annual certification required, with thorough due diligence and record retention for six years after an individual ceases to perform a CF role.

The updated guidance aims to enhance clarity, transparency, and effectiveness in the Fitness and Probity Regime. This revision will be followed by a substantive review in 2027. Stakeholders are invited to provide feedback on the proposed revisions by 10 July 2025, ensuring the regime remains robust and fit for purpose in the evolving financial landscape.

Fitness and Probity Gatekeeper Process Manual

Alongside the Central Bank of Ireland's publication of the consultation paper and draft guidance, a comprehensive document on the **Fitness and Probity Gatekeeper Process** was also released. This manual offers detailed guidance on the procedures and responsibilities essential for ensuring that individuals appointed to key positions within regulated entities meet the required standards of fitness and probity. It provides both individuals and firms with clear information on the qualifications and steps necessary for appointment to these critical roles.

Submitting a PCF Application:

- Regulated firms must seek approval from the Central Bank of Ireland (CBI) before appointing individuals to Pre-Approval Controlled Function (PCF) roles.
- Instructions on setting up and using the Central Bank Portal for submitting applications.
- Details on completing and submitting the individual questionnaire (IQ), including necessary supporting documentation and completeness checks.

Application Assessment:

- Steps include desk-based evaluation, completeness checks, additional information requests, and interviews.
- Assessment based on competence, capability, honest, integrity and financial soundness.
- This body engagement which may involve former employers, other regulatory bodies, or organisations like the National Vetting Bureau for additional information.

Decision Making:

- Approval or refusal based on the assessment.
- The Gatekeeping Decisions Committee review cases where refusal is proposed, ensuring impartiality.
- Decisions can be appealed to the Irish Financial Services Appeals Tribunal.

CBI 42nd Edition UCITS Q&A

- On 17 April 2025, the Central Bank of Ireland published the 42nd Edition of its UCITS Q&A. The CBI revised its policy on portfolio transparency for Irish-domiciled ETFs, now allowing the creation of semi-transparent ETFs.
- Previously, full portfolio holdings had to be disclosed daily. While the option for daily disclosure remains, now ETFs can also disclose holdings on a "periodic" basis, within 30 days after each calendar quarter. This change is reflected in QA ID 1012.

Conditions for Semi-Transparency:

- Daily disclosure of sufficient information to support arbitrage.
- Clear prospectus disclosure of what is shared daily.
- Equal access to information for authorised participants and market makers.
- Procedures for impaired arbitrage mechanisms and investor portfolio requests.
- Timely public disclosure of quarterly holdings.

This policy shift supports active ETF growth and aligns with the recommendations outlined in the Fund Sector 2030 report, and IOSCO's ETF Good Practices.

Individual Accountability Framework: Questions from Stakeholders

On 18 June 2025, the Central Bank of Ireland (CBI) released a comprehensive **Q&A document** addressing stakeholder queries on the Individual Accountability Framework (IAF). This publication builds on previous guidance and reflects the evolving understanding of the IAF's implementation across financial services.

The document provides clarifications and practical guidance on two core components of the IAF:

1. **The Conduct Standards**
2. **The Senior Executive Accountability Regime (SEAR)**

It includes updates from stakeholder engagement and reflects the CBI's ongoing commitment to transparency and regulatory clarity.

The CBI's Q&A reflects a mature and responsive regulatory approach, aiming to clarify expectations, support firms in implementation and reinforce accountability and governance.

The phased inclusion of (I)NEDs and the emphasis on culture, oversight, and transparency signal a shift toward a more robust and ethical financial ecosystem.

Stakeholders are encouraged to continue engaging with the CBI via IAF@centralbank.ie for further clarifications.

1. Conduct Standards

Applicability: CF role holders providing services cross-border are subject to the Conduct Standards.

Group Entities: Individuals in group entities are not automatically CF-1 role holders unless they exert significant influence on key aspects of the business.

Training: Firms must ensure training is provided to individuals in CF roles, but third-party delivery is acceptable.

Reporting Breaches: Suspected breaches of the conduct standards should be reported to supervisory contacts or via the Protected Disclosures Desk (where a person wishes to make a protected disclosure directly).

Timing of submission: Reporting timelines depend on case-specific circumstances.

Reasonable Steps: PCFs and CF-1s must promptly and appropriately disclose to the CBI about any important information it would expect to know about their firm. Reports should be made to the relevant supervisory contact. For protected disclosures, reports must be submitted directly via the CBI's **whistleblowing page**.

2. Senior Executive Accountability Regime (SEAR)

Prescribed Responsibilities (PRs): Firms have flexibility in assigning PRs, except for those mandated to be allocated to (I)NEDs from 1 July 2025.

AML/CFT (PR20): Even without a PCF-52 (Head of Anti-Money Laundering and Counter Terrorist Financing Compliance), firms must assign PR20 to the most senior responsible individual, with the appropriate authority.

Regulatory Committees (PR34): Should be assigned to the most senior individual, with the appropriate authority, overseeing regulatory steering committees.

(I)NED Responsibilities: From 1 July 2025, (I)NEDs must have Statements of Responsibilities for PRs such as:

- PR4 (Firm's Culture)
- PR6 (Firm's Remuneration Policies and Practices)
- PR8–PR12 (Internal Audit, Compliance, Risk, Succession, Whistleblowing)

Learnings from Implementation: Positive feedback; emphasis on clarifying the distinction between executive and non-executive responsibilities.

Committee Chairs: PRs should align with the roles of committee chairs (e.g., Audit, Risk, Nomination).

PCF List Revisions: Any changes will be coordinated by the CBI with the planned three-year review of the SEAR in 2027.

Updates from ESMA and other ESAs

Implementing rules on Liquidity Management Tools for funds for AIFMD II

On 15 April 2025, ESMA published **implementing rules** on Liquidity Management Tools (LMTs) for funds under AIFMD II, including Guidelines and Draft Regulatory Technical Standards (RTS). These define the LMTs available to AIFMs managing open-ended AIFs and UCITS, aiming to enhance liquidity risk management and mitigate financial stability risks. The publication reflects feedback received during the consultation which closed in October 2024.

Summary of the Key Points from the Consultation Feedback

Suspension of Subscriptions, Repurchases, and Redemptions

- Many respondents agreed with the proposed characteristics but suggested that fund managers should have the flexibility to close only subscriptions or redemptions based on market conditions.
- ESMA acknowledged these comments but maintained the approach that suspensions should apply simultaneously to all activities.

Execution of Orders During Suspension

- The majority of respondents agreed that orders placed but not executed before suspension should not be executed until the suspension is lifted.
- ESMA removed the obligation for fund managers not to execute redemption orders during suspension, allowing flexibility based on market practices.

Reopening of Funds

- Respondents called for flexibility in handling non-executed redemption orders once the suspension is lifted, allowing fund managers to decide the best approach.

Circumstances for Non-Simultaneous Reopening

- ESMA noted comments suggesting circumstances where subscriptions, repurchases, and redemptions may not be reopened simultaneously, but did not change the approach in the final draft RTS.

Side Pockets

- Most respondents disagreed with the idea that assets in side pockets should always be managed with the view to liquidate them, suggesting circumstances where reintegration could be possible.
- ESMA did not include provisions on the management of side pockets in the final draft RTS but maintained the requirement for liquidation in the case of UCITS.

Costs and Benefits of LMTs

- Some stakeholders argued for minimal standards to avoid overregulation, while others highlighted the significant costs associated with implementing LMTs.
- ESMA did not modify the overall approach but removed provisions not addressing LMT characteristics.

ESG and Innovation

- ESMA did not modify the overall approach but removed provisions not addressing LMT characteristics.
- ESG aspects were deemed not relevant for liquidity management rules, and ESMA did not include any ESG-related aspects in the draft RTS.

Amendments to the Guidelines

Selection of LMTs: Managers should consider selecting at least one quantitative-based LMT and one anti-dilution tool (ADT), taking into account the fund's investment strategy, redemption policy, and liquidity profile.

Governance Principles: The sections on governance principles were removed, as existing directives already cover organisational requirements.

Disclosure to Investors: Guidelines on disclosure to investors were removed, as existing directives already impose disclosure obligations.

Depositaries: Guidelines addressed to depositaries were removed due to the lack of a legal mandate and existing obligations under UCITS and AIFMD.

Side Pockets: No activation threshold is provided for side pockets, and the guidelines regarding an LMT plan prior to activation were not retained.

Amendments to the RTS

Redemption Gates: Flexibility was introduced in expressing the activation threshold for redemption gates, allowing it to be expressed as a percentage of NAV, monetary value, or percentage of liquid assets for AIFs. For UCITS, it remains as a percentage NAV.

Swing Pricing: Minor changes were made to the characteristics of swing pricing, making provisions more normative. The application of swing pricing at the level of share classes was removed.

Suspension of Subscriptions, Repurchases, and Redemptions: ESMA maintained the approach that suspensions should apply simultaneously to all activities, despite feedback suggesting flexibility.

Side Pockets: ESMA did not include provisions on the management of side pockets in the final draft RTS but maintained the requirement for liquidation in the case of UCITS.

Updates summary

Disclosure to Investors: Guidelines on disclosure to investors removed, instead emphasizing importance of balancing transparency with potential drawbacks.

Side Pockets: Discusses requirement for side pockets created via physical separation in UCITS to be liquidated, emphasis of manager's discretion in choosing between accounting and physical segregation for side pockets, without necessarily liquidating the fund.

Cost-Benefit Analysis: a detailed cost-benefit analysis, concluding that the RTS will enhance investor protection and financial stability despite compliance costs, qualitative nature of the cost-benefit analysis, highlighting potential costs and benefits of implementing the guidelines.

ESAs Report on the implementation and functioning of the Securitisation Regulation

In April 2025, the European Supervisory Authorities (ESAs) released a **report** discussing the functioning of the Securitisation Regulation (Regulation (EU) 2017/2402) and how its reform under the Savings and Investments Union (SIU) could have a significant stimulating effect on the EU economy.

The report proposes regulatory changes aimed at enhancing the SECR's function by improving definitions, simplifying supervisory frameworks, and ensuring consistent supervision. Key recommendations include:

- Clarifying the jurisdictional scope of the regulation
- Incorporating proportionality in due diligence
- Transparency requirements
- Reporting templates standardisation

These changes aim to unlock the potential of traditional securitisation markets while safeguarding investor protection, ensuring consistent supervision across jurisdictions, and accommodating the evolving segmentation of the market.

The Proposed Changes and the reason why:

1. Simplification of Disclosure Requirements

Proposal: Introduce greater proportionality into transparency requirements and move away from loan-level disclosure (LLD) for certain asset classes.

Why: The current disclosure regime is seen as burdensome and costly, with limited added value for some asset classes, particularly those that are revolving, highly granular, or have short-term maturities. The aim is to reduce transaction costs and simplify the disclosure process while maintaining transparency.

2. Revision of Transparency Framework

Proposal: Adopt a streamlined approach to disclosure templates, particularly for private transactions, and ensure proportionality in requirements.

Why: The existing framework is fragmented with varying standards across different market segments. Streamlining aims to improve standardization, comparability, and to offer a more balanced approach between transparency and cost.

3. Enhancement of the Supervisory Framework

Proposal: Improve consistency in supervision across Europe, addressing issues such as cross-border coordination and establishing a more unified approach.

Why: There are concerns about fragmentation and inefficiencies in the current supervisory framework, which could hinder market revival. A consistent and unified supervisory approach is intended to support a robust and resilient market environment.

4. Reconsideration of Information Granularity

Proposal: Tailor the granularity of disclosure to the characteristics of each asset class and allow for aggregated information where appropriate.

Why: The current requirement for granular information can be excessive and not always necessary. Tailoring granularity could reduce costs and improve efficiency without compromising the quality of risk assessment.

5. Adequate and Proportionate Due Diligence

Proposal: Proportionality should play a key role in due diligence requirements and to enable simplified due diligence requirements.

Why: The current regulatory requirements do not establish how proportionality should be applied, leading to potentially burdensome and unneeded due diligence exercises.

Call for Evidence: understanding retail participation in capital markets

In May 2025, the European Securities and Markets Authority (ESMA) launched a **Call for Evidence to better understand the experience of retail investors in EU capital markets**. This initiative is part of the broader effort to support the Savings and Investment Union (SIU) by encouraging more individuals to invest beyond traditional bank deposits. Despite regulatory frameworks like MiFID II being designed to protect investors, ESMA is concerned that some requirements may unintentionally discourage participation due to complexity or lack of clarity. The Deadline for submission is 21 July 2025.

Non-Regulatory Barriers:

- Perceived complexity of financial products and lack of confidence in understanding them.
- Fear of loss and negative past experiences with investments.
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- High fees and unclear cost structures reduce perceived value.
- Limited financial literacy, especially regarding risk and diversification.
- Distrust in financial institutions, including concerns about biased advice or lack of transparency.

Regulatory Barriers:

- Overly complex disclosures on costs, risks, and product features can overwhelm rather than inform.
- Suitability and appropriateness of assessments may feel intrusive or burdensome, especially when repeated frequently.
- Sustainability preference integration adds complexity that some investors struggle to understand or articulate.
- Customer due diligence (AML/CFT) processes can be perceived as overly personal or confusing during onboarding.
- Taxation and cross-border investment rules vary widely across EU member states, creating additional friction.

In addition to regulatory and behavioural barriers, ESMA highlights several emerging trends that are reshaping how retail investors – particularly younger generations – engage with capital markets. These trends reflect a shift in investor preferences, driven by digitalisation, evolving risk appetites, and the influence of online communities.

Trends:

- Growing preference for speculative and volatile assets like cryptocurrencies and meme stocks.
- Influences from social media, "finfluencers", and AI-generated content are shaping investment decisions.

ESMA's Call for Evidence on the retail investor journey represents a pivotal opportunity to reassess how effectively the current regulatory framework supports retail participation in EU capital markets. While MiFID II has established important safeguards, this consultation recognises that both regulatory complexity and behavioural barriers may be limiting investor engagement – particularly among less experienced or younger individuals. By examining non-regulatory factors such as trust, financial literacy, and digital behaviours, alongside regulatory challenges like disclosure overload and suitability assessments, ESMA aims to strike a better balance between protection and accessibility.

Risks in UCITS using the absolute Value-at-Risk approach

On 24 April 2025, the European Securities and Markets Authority (ESMA) released a report examining the **risks in UCITS funds that use the absolute Value-at-Risk (VaR) approach**. The paper focuses on how this risk model, while intended to limit losses, can enable high levels of synthetic leverage through derivatives. ESMA highlights that although these funds represent a small share of the UCITS market, they manage significant assets and often employ complex, hedge fund-like strategies.

The core objectives addressed in the report include:

Monitor and assess market developments: In line with ESMA's mandate under Article 32 of Regulation (EU) No. 1095/2010, the report evaluates micro-prudential trends, potential risks, and vulnerabilities in the UCITS sector.

Analyse the use of the absolute VaR approach: Investigate how UCITS use this method to manage risk and how it enables exposure amplification through derivatives.

Identify and quantify leverage risks: Examine the gross leverage levels, volatility dynamics, and market risk metrics of UCITS using absolute VaR, especially those with hedge-fund-like strategies.

Compare UCITS with hedge funds (AIFs): Assess whether some UCITS exhibit risk profiles similar to hedge funds, despite being marketed to retail investors under a more regulated framework.

Highlight systemic risk channels: Explore how position liquidation, counterparty defaults, and interconnectedness could propagate financial stress.

Support supervisory and policy actions: Provide a foundation for targeted supervisory analysis and future regulatory considerations, especially regarding investor protection and financial stability.

Key Conclusions of the Report

- Approximately 8% of UCITS funds employ the absolute Value at Risk (VaR) approach, and within this group, a notable subset – particularly alternative UCITS – exhibit extremely high levels of leverage.

- These funds typically follow hedge-fund-like strategies and tend to have higher risk profiles than many Alternative Investment Funds (AIFs).
- The absolute Value at Risk (VaR) approach enables funds with low volatility to significantly amplify their exposures through the use of derivatives, creating synthetic leverage. This dynamic introduces procyclical risks, as periods of low market volatility often lead to increased leverage, which can in turn magnify losses during market stress.
- A significant portion of these UCITS funds is held by retail investors, which raises important investor protection concerns due to the complex strategies and elevated risk profiles associated with these products.
- Funds with higher complexity, such as alternative UCITS, are more difficult and costly to unwind during market downturns due to their intricate investment positions and greater interconnectedness with counterparties compared to AIF hedge funds.

Recommendations and Implications

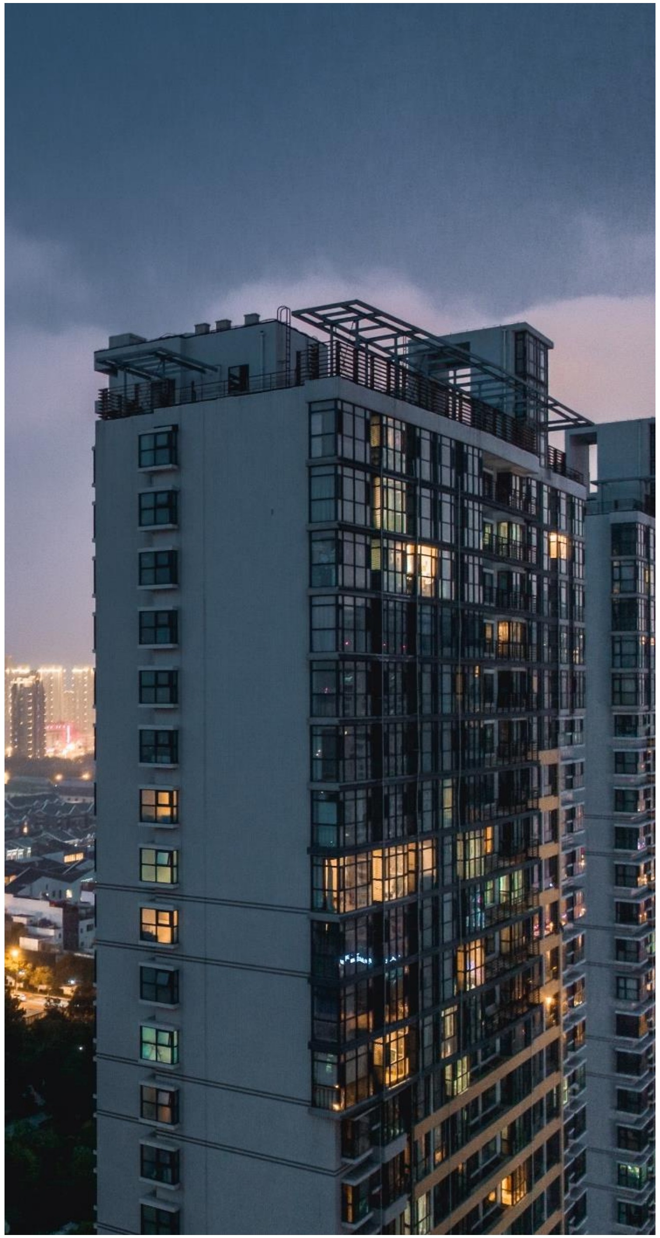
- ESMA and National Competent Authorities (NCAs) should maintain enhanced supervisory oversight of highly leveraged UCITS, particularly those employing the absolute VaR approach, given the potential risks they pose to financial stability.
- More detailed portfolio data is essential to support targeted risk assessments and enable timely and effective supervisory interventions.
- It may be necessary to review the suitability of marketing complex and highly leveraged strategies to retail investors under the UCITS label.
- Given that similar Value at Risk (VaR)-based frameworks are used in jurisdictions like the US and the UK, these findings could support enhanced global regulatory coordination across borders.

Principles on third-party risks supervision

On 12 June 2025, ESMA issued **principles** to National Competent Authorities (NCAs) across Europe in respect of how third-party risks of the entities they supervised should be supervised. The principles should be adhered to by NCAs so that supervisee's increased reliance on outsourced service providers' risk can be identified, assessed, and supervised. There are a total of **14 principles** set out by ESMA covering the following:

1. Supervision of third-party risks
2. Effective governance to manage third-party risks
3. Oversight of third-party risks by management bodies
4. Sufficient substance
5. Risk management framework
6. Risk assessment
7. Due diligence
8. Contractual arrangements
9. Effective monitoring
10. Third-party locations
11. Intragroup arrangements
12. Supply chain
13. Use of third parties for internal controls
14. Access and audit rights

Although these principles do not directly apply to firms operating within the EU's securities market, they do, however, act as a guide for how NCA's will look to govern third-party risk and what NCA's should expect of firms in general.



Technical Standards for Investment Firms' Execution Policies

On 10 April 2025, the European Securities and Markets Authority (ESMA) released a final report of Technical Standards specifying the criteria for establishing and assessing the effectiveness of investment firms' order execution policies. The report highlights ESMA's requirement to develop draft regulatory technical standards (RTS) for assessing the effectiveness of investment firms' order execution policies. The report comes on the back of the feedback from stakeholders on its proposals for the RTS consultation. There were 43 responses in total.

The core objectives addressed in the report include:

- **Execution Policies:** Firms should assess whether their order execution policies deliver the best possible results for clients.
- **Roles:** Senior management and compliance functions have a role to play in establishing and assessing the effectiveness of firms' order execution policies.
- **Record Keeping:** The importance of keeping records in a machine-readable format for compliance and supervisory tasks is highlighted, alongside the applicability of outsourcing regulations within the MiFID II framework.
- **Cost-benefit analysis:** The report provides an evaluation of the costs and benefits associated with the implementation of the draft RTS. It assesses the potential economic impacts and advantages these standards may bring to the market and investment firms.
- **Next Steps:** The draft regulatory technical standards have been submitted to the European Commission for adoption, and the Commission is expected to decide within three months.

Final Report on Technical Advice on UCITS Eligible Assets Directive

On 26 June 2025, ESMA has issued its advice to the European Commission (EC) in respective of making amendments to the UCITS Eligible Assets Directive (EAD) in order for it to facilitate market needs and developments since the UCITS Eligible Assets Directive was issued in 2007. ESMA will work with the EC moving forward to support it during its review of the UCITS EAD.

National Divergences

- ESMA found there were largely divergent practices regarding all asset classes for both direct and indirect exposures, and the interpretation of eligibility criteria set out in the UCITS EAD. Due to such divergences ESMA has advised the EC to utilise regulations instead of minimum harmonisation directives, to develop more harmonised market practices throughout the EU.

Liquidity under the UCITS framework

- ESMA has noted that it would be beneficial to establish a set of criteria which UCITS management companies could leverage for assessing the liquidity of assets. This should be done through a principles-based approach, drawing on the CESR's guidelines concerning eligible assets for investment by UCITS.
- In terms of liquidity assessments at asset and portfolio level, ESMA does not believe that liquidity assessments should be performed solely at portfolio level or at asset level. Therefore, ESMA has advised the distinction between the two liquidity concepts should be clarified.
- ESMA supports clarifying in the EAD that while listing is a key factor in assessing an asset's liquidity and negotiability, it should not be the sole basis for assuming current or future liquidity.

Transferable securities definition

- ESMA believes that additional clarification and simplification to the definition of transferable securities is necessary to enhance understanding and promote consistent supervision in the future. ESMA also agrees that greater alignment is required between the transferable securities concepts used in the UCITS framework and MIFID II. ESMA has advised that the criterion of adequately capture risks is too broad and clarification is needed, whereby linking the risks of an asset class to the risk management procedures set out in Article 23 of the UCITS Directive.

UCITS exposures to alternative assets

- ESMA has noted that not applying some level of look-through to the underlying asset will risk UCITS gaining significant exposure to alternative assets. While there has been a divergence in National Competent Authorities (NCAs) practices in terms of carrying out a look-through approach. Therefore, ESMA welcomes the EC to clarify the applicability of a look-through approach. It is advised that this would mean eligible asset classes should not be backed by, or linked to the performance of, other assets which may differ from those listed as UCITS eligible assets under Article 50 of the Directive 2009/65/EC. This would help limit the use of instruments that give rise to exposures to alternative assets.

- The advice permits indirect exposures to alternative assets up to 10%, subject to regulatory safeguards such as liquidity and valuation, to enhance risk diversification and generate returns from uncorrelated asset classes.
- ESMA believes that large-scale investments in alternative assets such as commodities, catastrophe bonds and crypto assets hold too much idiosyncratic risks and are more suitable to be dealt with under the AIFMD framework.

Money Market Instruments

- ESMA recognised clarity is required regarding the possibility that some instruments can potentially be reclassified as money market instruments (MMFs), while providing clear guidance on the qualification of specific instruments as money market instruments for the purpose of the UCITS eligibility assessment.

Financial Indices:

- A look-through approach should be required for exposures to assets held within an indices.

UCITS investments in AIFs

- ESMA has recommended establishing a clear regulatory distinction between open-ended and closed-ended alternative investment funds (AIFs). Additionally, the look-through approach should be applied to investments in AIFs, to avoid exposures to ineligible assets.

Alignment with MIFID II, DLT Pilot Regime Regulation and MiCA

- Greater alignment between MIFID II, DLT Pilot Regime Regulation and MiCA's concepts and definitions with UCITS EAD and the UCITS Directive.
- Crypto-assets aren't explicitly allowed for direct investment under UCITS, but exceptions may apply if they qualify as financial instruments under MiFID II or AIFMD and meet all UCITS eligibility and compliance requirements.

Short positions

- Greater alignment between MIFID II, DLT Pilot Regime Regulation and MiCA's concepts and definitions with UCITS EAD and the UCITS Directive.

Ancillary liquid assets

- ESMA advises the European Commission to explicitly state in the UCITS Directive that the 20% counterparty limit for deposits with a single entity also applies to ancillary liquid assets.
- ESMA sees no need to impose a cap on the amount of ancillary liquid assets that UCITS can hold.
- A comprehensive definition of ancillary assets is not required.

Foreign Currency Investments

- ESMA is of the view that UCITS investments in foreign currencies are allowed already under the UCITS Directive.

Securitisations

- The securitisation investment restrictions should be reviewed in future legislative amendments to the UCITS Directive.

Efficient portfolio management (EPM)

- ESMA acknowledges the benefits of allowing UCITS to engage in EPM techniques.
- Enhanced clarity of how EPM costs can be deducted from the respective revenue, but this would require amending the UCITS Directive.
- Eligible collateral arrangements should be clarified; however, this would require amending the UCITS Directive.
- Closer alignment is required between the Securities Financing Transactions Regulation (SFTR) and UCITS Directive's definition of certain EPM transaction and instrument types.

Financial Directives

- Criteria have been proposed that can be utilised to assess if a transferable security or money market instrument can be regarded as embedding a derivative or if the derivative component shall be deemed as a separate financial instrument.

ESMA Report on the integration of sustainability risks and disclosures

In July 2023, ESMA and NCAs launched a CSA to assess investment fund managers' compliance with sustainability risk disclosure and integration requirements. The output of the report does not reflect potential future changes under the Sustainable Finance Disclosure Regulation (SFDR), however the information gathered will inform the European Commission (EC) as they amend the framework.

Compliance with the legislative framework

Disclosures: ESMA found that disclosures were vague, utilised overly general language, lacked detail and were also difficult to locate. Inconsistencies were also observed amongst pre-contractual, periodic and website disclosures.

PAI Statements at Entity Level: Insufficient detail, unclear rationale for non-consideration, and inconsistencies in calculations.

Integration of sustainability risks: Lack of documented policies and absence of escalation procedures for policy breaches.

Resources: There was a low level of dedicated staffing resources for sustainability tasks with sufficient knowledge.

Remuneration policies: There was an absence of clear criteria and indicators to align remuneration policies with sustainability risk integration.

Controls and processes in place: Lack of processes to ensure ESG strategy descriptions are supported by relevant metrics and aligned with stated environmental, social, and governance principles.

ESG data: No verification of third-party ESG data, with instances of incomplete or inaccurate information used without further checks

Auditing system: Lack of audit of the implementation of the internal policies.

Integration of sustainability risks and factors

- Most NCAs confirmed that managers integrate sustainability risks into decision-making and organisational structures, with oversight from boards, senior management, and risk/control committees.
- Some firms failed to align sustainability risks with the funds' investment strategies.
- Due diligence on sustainability risk integration was lacking, with poor definition of indicators, unclear risk limits, infrequent reporting to senior management, and weak escalation procedures.
- Some managers do not consider funds disclosing under Article 6 of the SFDR in their risk management processes.
- Improvements are needed in how sustainability risks are considered across asset types such as cash, deposits, structured products, and derivatives.
- Some firms are mistakenly treating sustainability risk and greenwashing risk as the same type of risk.
- Generally, firms are reporting on sustainability risks to boards.
- There is a failure to identify, manage and monitor sustainability risk as part of the third line of defence.
- Firms have sufficiently experienced and knowledgeable staff in charge of the integration of sustainability risks.

SFDR Entity-level disclosures

- Most entitles have procedures in place to ensure consistency between the description of their funds' ESG strategies and the relevant ESG metrics and data used.
- Most firms periodically review entity level SFDR website disclosures on an ongoing basis.
- Some firms failed to incorporate sustainability risk into remuneration policies entirely or where incorporated the approach was vague or principles-based and did not link performance incentives with specific ESG metrics.
- Regarding entity level PAI disclosures ESMA identified some shortcomings such as: (1) failing to disclose detailed information on indicators used, (2) lack of sufficient detail on the methodology and data used, (3) editing the disclosure template and (4) not reporting on forward-looking climate scenarios and (5) providing unclear descriptions of the engagement policies.
- The explanations on non-consideration of PAIs are not fully satisfactory.

Product-level SFDR disclosure

- The PAI disclosures for some funds were generic and were not tailored to the characteristics of the corresponding fund.
- Website disclosure accessibility could be improved by some firms.
- For some Article 6 funds, it was found that the website showed images of suggestive of the environment. NCAs sought to understand why such imaging was selected for these specific funds and the images were consequently removed.
- NCAs confirmed that, generally, the names of funds reflected their ESG or sustainability-related characteristics or objectives.
- Many funds set minimum thresholds for PAI in order to assess the principle of Do No Significant Harm (DNSH).
- Many Article 8 managers are cautious about overstating their funds' share of sustainable investments and Taxonomy-aligned investments, to avoid accusations of greenwashing.
- Some funds set grossly low minimum commitments and then achieve figures much higher in the periodic disclosure. ESMA has noted that this could be misleading to investors.
- NCAs have been tasked following this CSA to follow up with the entities that they supervise to ensure that the issues identified are resolved.

Updates from the European Commission

Targeted consultation on integration of EU capital markets

On 15 April 2025, the European Commission published a **targeted consultation on the integration of EU capital markets**. This follows the publication of a communication on its strategy for the Savings and Investments Union (SIU) in March 2025.

The consultation aims at enhancing the integration and supervision of EU capital markets, emphasising the importance of the SIU strategy and highlighting the need to remove barriers to market driven integration of EU capital markets. Deadline for submission is 10 June 2025.

Key sections:

Simplification and burden reduction:

- Proportionality in the EU regulatory framework.
- Simplification of directives like AIFMD, MiFID, UCITSD.
- Impact of new technologies on regulatory frameworks.

Trading:

- Barriers to integration and modernisation of liquidity pools.
- Regulatory barriers to cross-border operations and liquidity aggregation.
- Impact of digital technologies on trading.

Post-Trading:

- Barriers to cross-border settlement in the EU.
- Barriers to application for new technology and new market practices.
- Uneven/inefficient market practices and disproportionate compliance costs.

Horizontal Barriers to Tarding and Post-Trading:

- Barriers identified by the European Post Trade Forum (**EPTF**)
- Cross-border operational synergies and barriers to consolidation.

Asset Management and Funds:

- Obstacles to accessing the single market for EU funds and asset managers.
- Effectiveness of existing authorisation procedures, passporting, and operational challenges.

Supervision*:

- Effectiveness of current EU supervisory arrangements.
- Potential benefits of more integrated EU supervision.

Horizontal Questions on the Supervisory Framework:

- New direct supervisory mandates and governance models.
- Role of European Supervisory Authorities (ESAs) as data and technology hubs to enhance supervision.
- Funding mechanisms for ESAs which could impact resources for supervising activities.

* Section of interest of Asset & Wealth Management sector

Call for Evidence: SIU Fostering integration, scale and efficient supervision in the single market

On 8 May 2025, the European Commission (EC) launched a **call for evidence on fostering integration, scale and efficient supervision in the single market** as part of its Savings and Investments Union (SIU) Strategy. The SIU is a key initiative to improve the way the EU financial system channels savings to productive investments. It seeks to offer EU citizens broader access to capital markets and better financing options for companies, to foster citizens' wealth, while boosting EU economic growth and competitiveness. The EC intends to adopt a Directive and a Regulation which seek to: (i) foster more integrated, deeper and efficient EU capital markets by removing regulatory, supervisory and operational barriers hindering key market players and infrastructures; (ii) modernise and simplify EU rules in the area; and (iii) reduce administrative burden.

The goal is to enhance competitiveness, reduce costs, and provide better investment opportunities for citizens and businesses across the EU.

In the call for evidence, the EC seeks to gather the views and experience of the stakeholders to:

- Identify the barriers that prevent the EU's trading and post-trading infrastructures and their users, including retail investors, from benefitting from a truly frictionless single market.
- Assess whether the existing regulatory and supervisory framework is suitable for capital markets, particularly for market operators with strong cross-border activities or operating in new or emerging sectors.
- Evaluate the European Supervisory Authorities toolbox to identify areas where their effectiveness and efficiency can be enhanced and improved.

The **deadline** for comments closed on **5 June 2025**. The EC intends to **adopt the legislative proposals in Q4 2025**.

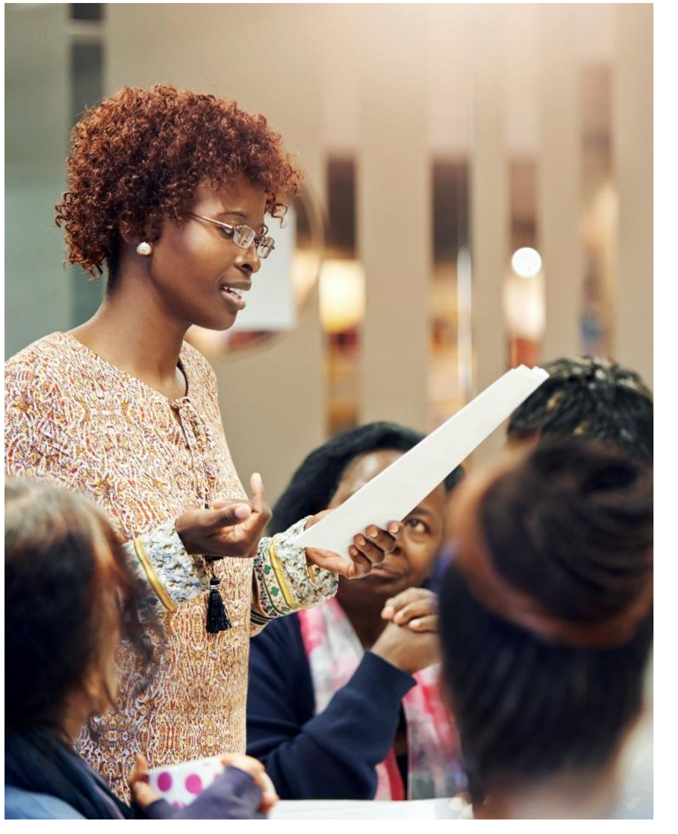
European Commission publishes Call for Evidence on SFDR

On 2 May 2025, the European Commission published a Call for Evidence seeking feedback from interested stakeholders on reforming the SFDR. The feedback period was open until 30 May 2025.

It is a high-level call for evidence, with no specific questions, and serves as the final opportunity for stakeholders to provide input before the Commission proposes reforms in late 2025. The key objectives of the reforms to SFDR are to streamline disclosure requirements, to create more comprehensive investor disclosures and to develop a more interoperability between other related frameworks such as CSRD and the EU Taxonomy.

Reform options

1. Targeted changes to existing disclosure rules.
2. A comprehensive overhaul, including a new product categorisation regime with three proposed categories: (a) sustainable, (b) transition and (c) other ESG strategies.



Other updates

Directive (EU) 2024/927: Finance Department's Feedback on National Discretions

On 8 May 2025, the Department of Finance published its **Feedback Statement on the exercise of the national discretions in Directive (EU) 2024/927**.

Directive (EU) 2024/927: This Directive amends Directives (EU) 2011/61/EU and 2009/65/EC regarding delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services, and loan origination by alternative investment funds. The deadline for transposition of this Directive is 16 April 2026.

Purpose: The purpose of this document is to bring greater clarity to the transposition process, as well as outline how Ireland intends to exercise its national discretions, following a public consultation launched by the Department of Finance in December 2023.

Outlined below is the Minister's decision regarding the exercise of national discretions under Directive (EU) 2024/927.

Discretion 1: Article 1(2): To be exercised in full. The CBI will be permitted to authorise external AIFMs to engage in the ancillary activities and non-core services provided for in Article 1 (2) of the amending Directive.

Discretion 2: Article 1(7): To be exercised in full. All AIFs that originate loans, whether domiciled in Ireland or elsewhere, will be prohibited from granting loans to Irish customers.

Discretion 3: Article 1(10): Discretion not to be exercised. The CBI will not be permitted to allow an Irish-domiciled AIF to appoint a depositary established outside of Ireland.

Discretion 4: Article 2(2): To be exercised in full. The Central Bank will be permitted to authorise UCITS management companies to engage in the ancillary services and non-core services provided for in Article 2 (2) of the amending Directive.

UCITS Q&A: Inclusion of change notification documents
(to previously submitted information)

Question: When, pursuant to Article 93(8) of Directive 2009/65/EC, a UCITS gives written notice to the competent authorities of both the UCITS home Member State and the UCITS host Member States, of a change to the information in the notification letter submitted in accordance with Article 93(1) of Directive 2009/65/EC, or a change regarding share classes to be marketed, should the documents referred to in Article 93(2) of Directive 2009/65/EC be included?

ESMA's Response: No, the documents referred to in Article 93(2) of Directive 2009/65/EC, should not be included.

The obligation of UCITS to give written notice of amendments to information already provided in a notification letter of cross-border marketing should be understood as covering only the updated information in Annex 1 of the Commission Implementing Regulation (EU) 2024/910 compared to the previous notification. Amendments to fund documents should not be covered by the obligation of written notice of Article 93(8) of Directive 2009/65/EC.

Directive: Commission Implementing Regulation (EU) 2024/910

The legislation lays down implementing technical standards for Directive 2009/65/EC, which concerns undertakings for collective investment in transferable securities (UCITS).

Specifically, the document addresses the form and content of information to be notified regarding cross-border activities of UCITS and UCITS management companies, as well as the exchange of information between competent authorities on cross-border notification letters.

It also involves amending Commission Regulation (EU) No 584/2010. The document contains detailed procedures, attestations, and standardised forms related to these processes.

Annex I in the document provides the model notification letter that a UCITS must submit for cross-border marketing of its units under Article 93(1) of Directive 2009/65/EC.

The notification covers details such as the management company or internally managed UCITS, facilities provided to investors, and comprehensive information about the UCITS, including arrangements for marketing and required attachments.

It also ensures confirmation of completeness and requires specific information to be updated in subsequent communications if any amendments arise.

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