



February 2016

## Investor Money Regulations Update

As readers may be aware, Ireland is introducing a new investor money regime which will have an impact on, amongst others, Irish regulated UCITS and AIFs, as well as on a variety of different types of fund service providers including UCITS ManCos, AIFMs and Depositaries (each an “FSP”).

The regulations are contained in the Central Bank (Supervision and Enforcement) Act, 2013 (Section 48(1)) Investor Money Regulations, 2015 for Fund Service Providers (the “**Investor Money Regulations**”).

The key message from this update is that the implementation date for the Investor Money Regulations is being postponed from April 1, 2016 to July 1, 2016, giving the industry additional time to take all necessary steps required to address the new regime.

The application of the Investor Money Regulations, in an investment funds context, is to the flows of money into a fund from investors (subscriptions) and flows out of a fund to investors (redemptions and distributions).

We do not go into these arrangements in any detail in this memo but the following points are of note:

1. in some cases the funds and their FSPs may choose to operate subscription and / or redemption cash accounts in accordance with the Investor Money Regulations where the monies in those accounts will be deemed to be “*investor money*” for the purpose of those Regulations and subject to the controls set out in those Regulations;

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2. In other cases – possibly in most cases - funds and their FSPs will seek to follow a so-called “Fund Assets” model where, for all purposes, the monies held in those collection and / or redemption cash accounts (a single account may operate for both purposes) will be assets of the fund following receipt from the investor (in the case of subscription monies) and pending payment to the investor (in the case of redemption monies / distributions).

In certain cases, principally to address the treatment of monies received by a fund prior to the relevant dealing day, it may be a necessity to amend or update fund documentation including, the subscription agreement / application form, prospectus and the constitutive document to support a fund assets model.

3. It may also be appropriate to amend or update Administration Agreements and Depositary Agreements to clarify the roles and responsibilities around the operation of such accounts. New procedures may also need to be agreed where an umbrella cash account is to be used into which subscription monies flow and from which redemption monies flow for multiple sub-funds of an umbrella.

The additional time with which the Central Bank has afforded the industry is extremely welcome as the practical implications of the new arrangements - and in some cases documenting existing arrangements - has proved more challenging than originally envisaged.

The Central Bank’s Markets Directorate has written to individual FSPs in relation to the potential applicability of the Investor Money Regulations to their business models. FSPs will be required to provide the Central Bank by July 1, a detailed account of the arrangements that have been made to comply with the new requirements.

**Dillon Eustace**  
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