



October 2018

Central Bank changes UCITS and Retail AIF Authorisation and Post-Authorisation Procedures

The Central Bank of Ireland (the “**Central Bank**”) issued an industry letter on 9 October, 2018 outlining certain amendments to the review process conducted in the context of applications for UCITS and Retail Investor AIF (“**RIAIF**”) authorisations and post-authorisation amendments.

Subject to the receipt of the relevant Central Bank application form and written confirmations (as set out in Appendix A attached hereto), the Central Bank will no longer carry out a prior review of the following:

- ❑ The establishment of new Share Classes;
- ❑ Depositary Agreements;
- ❑ Trust Deeds or Deeds of Constitution;
- ❑ Investment Limited Partnership Agreements; and
- ❑ UCITS Financial Indices.

The Central Bank will carry out assurance quality checks, selected on a random basis, in relation to the listed documentation. In respect of UCITS financial indices, similar checks will also be conducted and the Central Bank has indicated that it will require a Responsible Person of a UCITS to make necessary material available immediately upon request, demonstrating that the index is an eligible financial index.

In addition to the above amendments, the Central Bank has created a new application form in respect of UCITS merger applications to

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further streamline such applications and eliminate frequently arising comments. This new application form reflects the merger rules set out in the UCITS Regulations, 2011 (as amended) and does not create any additional requirements in this regard. The new application form will be made available on the Central Bank's website shortly and should be submitted via the current email address ucitsmergers@centralbank.ie.

It is the Central Bank's intention that the above amendments will be effective immediately and any applications submitted from 9 October, 2018 will fall under the new regime.

This is a welcome development from the Central Bank which should result in a more efficient authorisation and post-authorisation regime for both UCITS and RIAIFs.

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Appendix A

Share Classes

For the establishment of a new share class, the following documents / confirmations must be submitted by 12 p.m. on the day prior to noting via fundspostauthorisation@centralbank.ie:

1. The fund document providing for the establishment of the new share class;
2. Completed Section 2.21 of the UCITS Application Form / RIAIF Application Form;
3. Confirmation from the Responsible Person that the establishment of the share class accurately reflects the requirements of the relevant Section 2.21 and any relevant Central Bank guidance and legislation; and
4. Where relevant, confirmation from the Responsible Person that the proposal to restrict the share class to certain entities is sufficient to allow for public participation.

Depositary Agreements

For a new Depositary Agreement, the documents / confirmations listed below must be submitted to the Central Bank on the authorisation day of the new UCITS/RIAIF as part of the authorisation application. Where post-authorisation updates are made to a Depositary Agreement, the documents / confirmations listed below must be submitted by 12 p.m. on the day prior to noting via fundspostauthorisation@centralbank.ie:

1. Duly executed Depositary Agreement;
2. Completed Section 5 of the UCITS Application Form or Section 4 of the RIAIF Application Form (extracts only where relevant for updated Depositary Agreement);
3. Confirmation from the Depositary that the Depositary Agreement is in compliance with the relevant UCITS/RIAIF legislation, regulation, regulatory guidance (as detailed in the Central Bank's letter) and, in particular, all necessary liability requirements.

Trust Deeds / Deeds of Constitution

For a new Trust Deed or Deed of Constitution ("**Deed**"), the documents / confirmations listed below must be submitted to the Central Bank on the authorisation day of the new UCITS/RIAIF as part of the authorisation application. Where post-authorisation updates are made to a Deed, the documents / confirmations listed below must be submitted by 12 p.m. on the day prior to noting via fundspostauthorisation@centralbank.ie:

1. Duly executed Deed;
2. Completed Section 5 of the UCITS Application Form or Section 4 of the RIAIF Application Form (extracts only where relevant for updated Deed);

3. Confirmation from the Depositary that the Deed is in compliance with the relevant UCITS/RIAIF legislation, regulation, regulatory guidance (as detailed in the Central Bank's letter) and, in particular, all necessary liability requirements.

Investment Limited Partnerships

In respect of a new RIAIF, an Investment Limited Partnership Agreement ("**ILP Agreement**") should be submitted on authorisation day of the new RIAIF together with a completed Section 10 of the RIAIF Application Form. Where post-authorisation updates are made to an ILP Agreement, the updated and executed ILP Agreement should be submitted by 12 p.m. on the day prior to noting via fundspostauthorisation@centralbank.ie together with the relevant extracts of Section 10 of the RIAIF Application Form.

UCITS Financial Indices

In order for a UCITS to use an index, a Responsible Person of the UCITS must provide the following certification either (i) at the time of application for authorisation for a new UCITS or (ii) by soft copy to fundspostauthorisation@centralbank.ie for an existing UCITS seeking to use a new index:

"I (being a director of the Responsible Person), on behalf of the [Responsible Person] of [name of UCITS] certify that [name of Index] is a financial index which complies with: the requirements of the UCITS Regulations, 2011, the Central Bank UCITS Regulations, 2015 and the Central Bank's Guidance on UCITS Financial Indices. [Name of Index] is a UCITS eligible financial index."