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// ASSET MANAGEMENT & INVESTMENT FUNDS

Asset Management & Investment Funds Update

January 2025

Key Dates & Deadlines: Q1 / Q2 2025

The following are key dates and deadlines in Q1 / Q2 2025 along with possible impacts and action items arising for fund managers.

Date	Source	Summary	Action/Impact
1 January 2025		Central Bank of Ireland PCF annual confirmation and CF certification CBI Portal open to receive 2024 PCF Annual Confirmation and CF Annual Certification	Please see article on this topic in the November 2024 Update for further details.
17 January 2025		DORA Application of the Digital Operational Resilience Act	
31 January 2025		MiFID II marketing communications Date by which fund management companies providing MiFID II services to retail clients must complete review of marketing and advertising practices with board approved action plan in accordance with the CBI Dear CEO letter	Please see article on this topic in the November 2024 Update for further details.
26 February 2025		EU Sustainable Finance omnibus simplification package The European Commission is expected to publish proposals around simplification of the disclosure requirements across EU Taxonomy, CSRD and CSDDD	Please see article on the topic in this update for further details.
End Q2 2025		CBI ETF review Date by which fund management companies are required to incorporate any necessary changes to frameworks	Please see article on the topic in the December 2024 Update for further details

		and practices in accordance with the requirements of the CBI letter on review of the ETF ecosystem	
12 March 2025		Loan originating AIFs Deadline for responding to ESMA consultation for open-ended loan-originating AIFs	Please see article on the topic in this update for further details
Q1 2025		AIF Rulebook consultation The CBI expects to publish an AIF Rulebook consultation which would include AIFMD II transposition	
Q2 2025		ESMA CSA on sustainability disclosures ESMA expected to issue its report on the outcome of the CSA	
2 April 2025		UK SDR naming and marketing rules End of temporary flexibility period for FCA 'naming and marketing' and disclosure rules	Please see article on this topic in the November 2024 Update for further details.
21 May 2025		ESMA Guidelines on funds' names using ESG and sustainability related terms Funds in existence before 21 November 2024 must comply with the guidelines from this date.	Please see article on topic in the September 2024 Update for further details

Open-ended loan originating AIFs – ESMA consultation

According to AIFMD, loan-originating Alternative Investment Funds (LO AIFs) must be closed-ended, except where the AIFM can demonstrate that the AIF's liquidity risk management system is compatible with its investment strategy and redemption policy. ESMA is tasked with developing draft regulatory technical standards (RTS) to determine the requirements with which such an AIF has to comply in order to remain open-ended. In December 2024, ESMA published a consultation on proposed standards to determine the requirements with which LO AIFs must comply in order to be regarded as open-ended.

Those requirements include

- a sound liquidity management system,
- the availability of liquid assets and stress testing
- an appropriate redemption policy having regard to the liquidity profile of the LO AIFs.

Those requirements must also take due account of the underlying loan exposures, the average repayment time of the loans and the overall granularity and composition of the portfolios of the LO AIFs.

Proposed key requirements for open-ended LO AIFs

The starting point for ESMA was the existing AIFMD Level 2 provisions on liquidity management with which all opened-ended AIFs must comply. ESMA has concluded that there are no gaps in the existing Level 2 provisions on liquidity management that would need to be addressed to account for the specificities of open-ended LO AIFs. Instead, the RTS will provide a harmonised implementing framework tailored to the specifics of open-ended LO AIFs setting out parameters/elements that AIFMs managing open-ended LO AIFs must consider when applying the AIFMD Level 2 provisions so they can demonstrate to their home Member States competent authorities that the LO AIFs they manage can maintain an open-ended structure, with a particular focus on sound liquidity management.

Appropriate redemption policy

For each open-ended LO AIF they intend to manage, AIFMs should define an appropriate redemption policy and an appropriate proportion of liquid assets that the AIF should target to hold to be able to comply with redemption requests.

AIFMs must consider many specific factors to ensure the redemption policy is appropriate. These include frequency of redemptions; portfolio diversification and liquidity profile of assets; targeted credit quality of loans to be granted; targeted investor base and investor concentration; the availability of a reliable, sound and up-to-date valuation of the loans and other assets in the portfolio, corresponding to their estimated realisable value at the dates of redemptions.

Availability of liquid assets

When defining the appropriate proportion of liquid assets of the open-ended LO AIF they intend to manage, AIFMs should consider several factors, including the expected cash flows generated by the loans granted, the redemption policy of the AIF, the maturity and the number of loans granted, estimated defaults and rescheduling, the length of the notice period and the anticipated behaviour of the targeted investors, as well as the investor concentration.

In addition, AIFMs should determine the type of assets they consider as liquid. For that purpose, expected cash flow generated by the loans granted should be considered as liquid assets.

Liquidity stress tests

AIFMs that manage open-ended LO AIFs must conduct liquidity stress tests at least on a quarterly basis, unless a higher or lower frequency is justified by the characteristics of the open-ended LO AIF. AIFMs must stress test the assets and the liabilities of the AIFs separately and combine the results of these stress tests to determine the overall effect on the liquidity of the AIFs.

Ongoing monitoring

In order, to be able to assess whether the liquidity management system of the open-ended LO AIF remains compatible with the investment strategy and the redemption policy of the AIF, AIFMs should have in place the necessary monitoring arrangements to enable them to monitor specific parameters, such as the level of liquid assets, the level of subscriptions and redemptions, or early-warning signals of loans impairment.

Next steps

The deadline for feedback to the consultation is 12 March 2025. ESMA expects to publish a final report and submit the draft RTS to the European Commission by Q3/Q4 2025.

Central Bank of Ireland establishes a dedicated F&P unit

The CBI announced on 19 December 2024 the establishment of a dedicated Fitness and Probity (F&P) unit. This is a reform implemented following the Enria review and report issued in July 2024. This report identified several key areas for improvement in the CBI's operation of its F&P regime. You can read a summary of the review recommendations in the August 2024 Update.

Speaking at the announcement of the unit, Governor of the CBI Gabriel Makhlouf said "…*we recognise that this is only a first step towards delivering a fitness and probity gatekeeping process aligned with the spirit and approach of the report. As such, work will continue in implementing and delivering a regime which supports supervisory judgement, while delivering robust, fair and transparent processes.*

"The new unit will be staffed from within our existing complement by experienced regulators from across the Bank."

The CBI has said that the new F&P team will be in place at the start of 2025.

Central Bank of Ireland PCF annual confirmation and CF certification

As reported in the November 2024 Update, the Central Bank of Ireland's (CBI's) pre approval control functions (PCF) annual confirmation and control function (CF) annual certification facility will be open on the CBI portal from 1 January 2025.

Enhancements to the current Fitness & Probity (F&P) Regime under the Individual Accountability Framework require regulated firms to proactively certify that individuals carrying out CF and PCF roles meet the CBI's standards of F&P both initially and on an annual basis.

CF certification is in respect of CF holders at year end 2024. The PCF annual confirmation is in respect of current active PCF holders in the firm.

Updated Guidance

The CBI system guidance has been updated to include the steps for CF certification submission. The submission windows will align with those of previous years.

Central Bank of Ireland investment funds supervision bulletin

The CBI issued the first edition of its Investment Funds Supervision bulletin in December 2024. The purpose of this bulletin is to highlight current and future areas of supervisory and authorisation focus, including recent thematic and sectoral work to help firms to understand the risks identified. Firms should consider the content of the bulletin and any actions they should take to address any identified risks. The bulletin should also assist with flagging future supervisory data and other requests so that workload and resources can be managed by firms.

Topics covered

The CBI covers the following in the bulletin:

Recently completed thematic reviews

- Fixed Operating Expense (FOE) models
- Investment Advisors

Other significant updates

- Exchange traded funds (ETFs)
- Data Led Supervision
- Irish Property Funds

Other reviews with communications to follow

- Liquidity Management Tools

A look to the future

- Risk register
- Securities Lending Review
- Common Supervisory Action (CSA) on Sustainability Risks and Disclosure
- Some areas of focus for 2025

Fixed Operating Expense models

As a follow on from the March 2023 industry letter that was issued in response to the CSA on Costs & Fees, supervisors conducted a targeted review of FOE models. Where an FOE model is used investors should be aware of all expenses and the model should be calibrated so that any differential is minimised and that undue costs are not charged to investors.

All new and existing costs should be reviewed annually. Periodic independent reviews fee structures should be performed.

Investment Advisors

This review started in 2023 and was aimed at fund structures where there is both an investment adviser (IA) and a discretionary investment manager appointed to a fund and the relative fees being charged by both. The CBI observed instances where the fees paid to the IA were higher than that of the investment manager and in some cases the reasons provided by fund management companies (FMCs) to justify these arrangements were not always clear. Quality of fee disclosures and the role of the IA will continue to be scrutinised.

FMCs should ensure that fee arrangements are appropriate for the services provided and are reviewed throughout the lifecycle of the fund.

ETFs

In 2024 the Central Bank carried out a review of how FMCs oversee the activities of Authorized Participants and Contracted Market Makers appointed to their ETFs. The CBI issued an industry communication issued on 28 November 2024. See the December 2024 Update for a summary.

Data led supervision

A key supervisory priority for the CBI is greater data utilisation and building out its data and analytic capabilities. An example of this is the new Daily Investment Fund Return which, from 16 December 2024, will collect daily subscription and redemption data from all non-money market investment funds. This represents the first phase of daily fund return work; the next phase will focus on the collection of data in relation to the use of liquidity management tools.

Irish Property Funds

The CBI issued a questionnaire to a sample of FMCs managing Irish property funds in Q1 2024. The outcome of the information collected has led to a focus on liquidity stress testing (LST) practices. Property funds should not rely on the FMC LST policy. LST should be carried out at least quarterly.

Liquidity Management Tools

Based on the survey issued to FMCs in 2024, the CBI concluded that there is a lack of alignment between the current availability of LMTs and the level of availability being considered as part of international discussions on LMT guidelines for investment funds. The initial analysis also indicated that usage levels of price-based LMTs during the survey period were lower than the CBI would have expected.

Early in 2025, the CBI will issue a more targeted questionnaire to a sample of FMCs. Findings should be communicated to industry in 2025 following conclusion of the review.

Risk Register

The CBI conducted a review of Depositaries and Fund Administrators earlier this year. The primary focus of the review was to assess the practices surrounding the use and management of Risk Registers. There will be direct engagement with firms to address any specific findings.

Securities Lending Review

This examined the compliance of UCITS and AIF securities lending arrangements with ESMA Guidelines. The CBI plans to conclude the review in 2025 and communicate findings and actions to industry.

Common Supervisory Action on Sustainability Risks and Disclosure

It is expected that ESMA will issue its CSA report in Q2 2025. The Central Bank will also share an industry communication following ESMA's publication.

Some areas of focus for 2025

Areas of focus for 2025 will include a new ESMA CSA topic, continuation of the LMT review, a review focusing on Hedge Funds and the recently issued ESMA Costs and Fees Survey. There may also be further thematic reviews launched during 2025.

The CBI will continue to perform comprehensive authorisation assessments and post-authorisation amendments of retail investment funds. An area of focus will be the Sustainable Finance Disclosure Regulation, in particular ESMA Guidelines on Funds names using ESG or sustainability-related terms.

ESMA Q&A on fund names

ESMA released some Q&A in December 2024 to assist with application of the requirements of the ESMA guidelines on funds' names using ESG and sustainability related terms. You can read a summary of the guidelines in the June 2024 Update and about the effective date in the September 2024 Update.

ESMA Q&A topics

3 topics are covered in the Q&A:

- AIFs and UCITS with "sustainable" in their name should invest 50% or more of the proportion of investments in sustainable investment to satisfy the requirements of the guidelines to "meaningfully" invest in "sustainable investments" within the definition of SFDR. NCAs can assess on a case-by-case basis and may find that the proportion should be higher depending on the circumstances of the case.

- Exclusions by AIFs and UCITS related to companies involved in controversial weapons can be interpreted by reference to the list of controversial weapons provided in the SFDR PAI list i.e. "anti-personnel mines, cluster munitions, chemical weapons and biological weapons".

- AIFs and UCITS investing in European Green Bonds do not need to assess the underlying project or issuer of the bonds by reference to the PAB / CTB exclusion requirements in the Guidelines. For bonds not issued under the EU green bond framework, ESMA has clarified that it is possible to comply with the PAB/CTB exclusion criteria by adopting a "look-through" approach and confirming that the bond investment held by the fund does not finance any of the excluded activities rather than being required to apply the exclusion criteria to the issuer as a whole. If the issuing company is found to be in violation of the UN Global Compact principles or OECD Guidelines for Multinational Enterprises it will not be able to benefit from this "look-through" approach.

SFDR product categorisation – Briefing from EU Platform on Sustainable Finance

The EU Platform on Sustainable Finance (SF Platform) published a briefing on 17 December 2024 on the categorisation of products under SFDR. The SF Platform is an advisory body to the European Commission on sustainable finance policy, such as the EU Taxonomy and SFDR. To give examples of the nature of its role, the SF Platform has published other briefings on the SFDR Level 1 consultation and on the proposed changes to the SFDR regulatory technical standards.

The Platform's views have been instrumental in shaping the direction of EC sustainable finance policy so the EC can be expected to pay close attention to the contents of this report as part of the SFDR consultation process.

It is important to note that none of these briefings are an official European Commission document or an official European Commission position.

SFDR product category recommendations

The SF Platform suggests the following SFDR product categories and working titles:

- **Sustainable**: Contributions through Taxonomy-aligned investments or Sustainable Investments with no significant harmful activities, or assets based on a more concise definition consistent with the EU Taxonomy.
- **Transition**: Investments or portfolios supporting the transition to net zero and a sustainable economy, avoiding carbon lock-ins, in line with the EC's recommendations on facilitating finance for the transition to a sustainable economy. This would mean that the minimum criteria for such products are a minimum of X% of investments are transitioning measured with credible transition pathways or plan. A credible transition strategy can also be set at portfolio level.
- **ESG collection**: Excluding significantly harmful investments/activities, investing in assets with better environmental and/or social criteria or applying various sustainability features.

All other products should be identified as **unclassified products**. It is proposed that unclassified products should make minimum sustainability disclosures such as reporting on Taxonomy alignment, greenhouse gas (GHG) emissions and human rights due diligence. They should not have to satisfy minimum sustainability criteria. To clearly distinguish unclassified products from those categorised, the SF Platform recommends prohibiting unclassified products from including any description of ESG characteristics or sustainable or transition features in the marketing material. The SF platform has discounted the establishment of an exclusion- only category.

The proposal is high-level and would require further development. The idea is that it would serve as a basis from which to build a complete and detailed categorisation scheme. Real-world testing would be required to define or refine thresholds.

Other topics in the briefing

As part of the briefing, the SF Platform touches on other SFDR concepts. The definition of "sustainable investment" is one. The SF Platform recommends that this definition is strengthened as currently it is a legal definition open to different applications unlike, for example, the classification of an environmentally sustainable economic activity under the EU Taxonomy. It also recommends that "do no significant harm" or DNSH thresholds are evidence- and science-based. The Irish funds industry has previously indicated to the CBI that a change in the definition of "sustainable investment" would not be welcome because of its impact on existing sustainable investment frameworks which would be costly and trigger investment confusion.

There is also specific recognition in the briefing that mixed products such as multi-option products and fund of funds will find it more difficult to avail of product categories and that it merits specific investigation to ensure that mixed products can avail of any product categorisation options.

Mapping proposed categories to existing SFDR disclosures

Any transition to a SFDR product categorisation regime would need to be carefully evaluated and managed to ensure minimal disruption to the application to date of SFDR by firms and to avoid investor confusion. The SF Platform acknowledges this. At a high level, the SF Platform speculates that existing products disclosing under SFDR A6 would most likely be unclassified products under the new regime. Those disclosing under A8 could feasibly fall into any of the 4 proposed categories and would therefore require careful evaluation. Those currently disclosing under A9 would most likely fall to be categorised as sustainable or transition.

DORA – ESA summary report from dry run exercise

The European Supervisory Authorities (EBA, EIOPA and ESMA – the ESAs) published a summary report with the key findings from the 2024 Dry Run exercise on 17 December 2024 regarding the registers of information under the Digital Operational Resilience Act (DORA). The conclusions and lessons learnt as well as individual data quality feedback provided to financial entities during the exercise will aid preparations for the official reporting starting in 2025.

CSRD, EU Taxonomy and CSDDD – proposed omnibus simplification package

The European Commission has announced an intention to investigate simplification of the requirements of 3 key pieces of European sustainable finance legislation through an omnibus legislative process. The EU Taxonomy Regulation, Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD) will be examined as part of the process.

A letter from the German government to the European Commission was leaked by media detailing requests to delay application dates for companies required to report under CSRD and EU Taxonomy and to increase threshold requirements for bringing companies in scope of CSDDD.

Content and timing

There are no details yet about what the omnibus simplification package may eventually involve or what changes may be made. The approach may be to simplify some of the disclosure requirements without altering the main content of the legislation. Latest reports indicate that the omnibus simplification package is to be published on 26 February 2025.

Central Bank of Ireland response to NBFI consultation

The CBI responded to the European Commission's consultation assessing the adequacy of macroprudential policies for non-bank financial intermediation. This response was published in the CBI's December 2024 Markets update. You can read a summary of ESMA's response to the consultation in our December 2024 Update.

CBI key focus

The focus of the CBI's response is centred on investment funds. The CBI's key policy priorities for developing a macroprudential framework for the NBFI sector include (i) implementing internationally-agreed reforms; (ii) enhancing the macroprudential toolkit; (iii) ensuring effective governance arrangements; (iv) introducing system-wide stress testing for the EU; (v) enhancing data sharing; and (vi) monitoring – and, where needed, adjusting – the regulatory perimeter.

Liquidity mismatch

Liquidity mismatch can arise when open-ended funds are invested in less liquid assets, while allowing their investors the opportunity to redeem their shares at a higher frequency. The CBI supports ESRB and ESMA proposals to enhance MMF resilience. It also supports implementation of an international framework for open-ended fund liquidity management.

UCITS VAR approach to leverage

In relation to the risks from excessive leverage, the CBI believes that further exploration is warranted in relation to the cohort of UCITS funds that follow an absolute VaR approach under the UCITS Directive, and whether they might present a systemic risk. To facilitate this, all UCITS funds using VaR should be required to report regularly on their leverage based on the commitment approach. This could potentially resemble the use of Article 25 of the AIFMD, for those UCITS funds using VaR.

Cross-border co-operation

The CBI supports a focus on reciprocation framework for NBFI macroprudential policies. For instance, such a provision could empower ESMA to consider, based on an NCA-proposed domestic measure, whether such a measure should be adopted EU-wide.

An additional mechanism to enhance coordination across the EU would be to grant ESMA 'top up' powers for specific macroprudential tools to address systemic risk across the EU.

System-wide stress testing in the EU

The CBI supports the introduction of a system-wide stress test in the EU as an important tool for exploring the response of a diverse set of market participants to adverse shocks.

Enhance NBFI data and date-sharing arrangements

The CBI supports enhancement of data access and data sharing across European authorities and the development of internationally consistent risk metrics for liquidity mismatch and leverage.

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