Irish Funds
Ashford House,
Tara St, Dublin 2

t: +353 (0) 1 **675 3200**
f: +353 (0) 1 **675 3210**

e: **info@**irishfunds.ie
w: **irishfunds**.ie

By Email - fundspolicy@centralbank.ie

Central Bank UCITS Regulations Consultation
Markets Policy Division
Central Bank of Ireland
PO Box 556
Dublin 1

29 June 2018

Re: Consultation on amendments to (and consolidation of) the Central Bank UCITS Regulations (the "Consultation Paper" / "CP119")

Dear Sir/Madam,

We welcome the opportunity to comment on this Consultation Paper regarding amendments to (and consolidation of) the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015, as amended (the "**CBI UCITS Regulations**").

Irish Funds is the representative body of the international investment funds community in Ireland, representing fund managers, custodian banks, administrators, transfer agents, professional advisory firms and other specialist firms involved in the international fund services industry in Ireland.

Ireland is a leading centre for the domiciliation, management and administration of collective investment vehicles, with industry companies providing services to collective investment vehicles with assets totalling in excess of €4.7 trillion. The funds industry is highly regulated and the ability to provide a well-regulated environment for investment funds and investment fund services is a substantial and proven part of Ireland's international financial services offering. Our industry has been a consistent and growing part of the internationally traded financial services landscape in Ireland for over twenty-five years.

At the outset, we welcome the initiative to review and update the CBI UCITS Regulations to introduce new requirements and adapt to the ever-evolving nature of investment fund regulation. We also support the consolidation exercise to capture previous changes made to the CBI UCITS Regulations by way of the previous sets of amending regulations.

This exercise will greatly assist fund sponsors and service providers to identify the exact current provisions applicable in a given case. We strongly support the continuing development of a regulatory framework that is as user friendly as possible. As the consolidation and inclusion of new provisions has led to a change to the referencing of the existing regulations, it might be helpful if a correlation table were provided in the final consolidation.

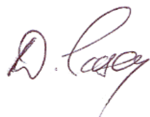
if irish funds

<u>Consultation responses</u>

We have set out in Appendix I hereto our responses to the questions contained in the Consultation Paper. We have supplemented these responses with additional comments, set out in Appendix II.

We hope you find these comments constructive. We believe it would assist your consideration of our response if we were to meet and talk you through the issues raised in this response and we would be available to meet at your convenience.

Yours faithfully,



Declan Casey
Director Legal and Technical

irish funds

Appendix I

Section I: Amendments arising from a review of the Central Bank UCITS Regulations

Question 1:

Stakeholders are requested to indicate whether they agree with the changes proposed and to provide any comments and / or observations.

Response:

We have set out comments on specific sections of the draft Regulations at Appendix II.

In addition, we would make the following general comments:

UCITS Management Companies and Depositaries – submission of half-yearly accounts

We agree with the proposal to amend Regulation 99(3)(a)(ii) and Regulation 118(3)(a)(ii)(ii) to state that the second set of accounts are to cover the full 12 months of the financial year.

However, we recommend that a two month filing deadline is retained for the second set of accounts. In particular, the nature of the record keeping for management companies and depositaries can take time to finalise after the period end. We believe it would not be practical to finalise perfect 12 month accounts for filing within 1 month of the period end. Please see point 23 in Appendix II below for further details.

Extending the reporting scope for the second set of accounts to cover the full twelve month period and reducing the period for such accounts to be submitted to the Central Bank from two months to one month presents a number of practical issues for management companies and depositaries.

No explanation for the changes has been communicated nor outline provided as to how the changes are necessary from a prudential supervision perspective. Increasing the scope of this regulatory reporting obligation creates an additional administrative burden for management companies and depositaries and it is not clear what benefit this brings. Furthermore, the requirement to produce these accounts in such a compressed period increases the possibility of inaccuracies or divergence from audited accounts that are carefully prepared in the industry standard time period. Additionally, it would not be unusual for a Board to wish to review information being submitted to the Central Bank. As such the proposed condensed timeframe makes it increasingly challenging to prepare the accounts for submission and circulate them to the Board with sufficient time for review and approval before then filing the accounts with the Central Bank.

We respectfully request that the Central Bank reconsiders the proposed reduction in the timeframe for submitting these accounts.

Risk Management Processes

Regulation 16 should be amended to reflect the filing process now in effect for risk management processes (per the Central Bank's Section 13 Form) as it is no longer required

irish funds

that new RMPs or materially amended RMPs must be filed for review "*in advance of the amendment being made*".

Collateral Requirements – Regulations 25(3)(b)

It would be helpful if the Central Bank could clarify the interaction between Regulation 25(3)(b) of the draft amending and consolidating CBI UCITS Regulations which refers to UCITS receiving collateral on any basis other than a title transfer basis and Regulation 34(7)(d) of the UCITS Regulations which provides that assets held in custody by a depositary may only be reused by the UCITS provided the transaction is covered by collateral received by the UCITS under title transfer arrangements. There appears to be some confusion as to how these provisions are to be applied, particularly in the context of securities lending transactions.

Designated email address
It would be useful to get clarity whether the requirement to provide a designated email address for each Irish UCITS applies at the umbrella or sub-fund level?

Section II: Amendments to UCITS Share Class Provisions

Question 2:
Stakeholders are requested to indicate whether they agree with the changes to share class provisions as currently proposed.

Response:

- Regulation 27(3)(a). The proposed change, in referring to 95% of the "net asset value of the hedged currency share class", is not consistent with the ESMA Opinion (the "Opinion") which expressly refers to 95% of "the portion of the net asset value of the share class which is to be hedged against currency risk". The Central Bank Guidance on UCITS and AIF Share Classes issued on 28 June 2017 (the "Guidance") also reflects the Opinion. We presume that this is a typographical error and that the intention was to follow the Opinion and the Guidance. See amendment proposed in point 6 in Appendix II below, consistent with the terms of the Opinion and the Guidance.

- Regulation 27(3)(l). We note that the Opinion indicates that counterparty exposure at share class level should be in line with UCITS restrictions. What is unclear is how this should be measured and monitored and its interaction with the overall counterparty exposure limit at fund level.

  As derivative contractual documents are at fund level, typically given netting provisions the fund will always exchange collateral on a net basis for the fund rather than the share class and this thus creates difficulties operating the fund within counterparty exposure limits. Also, at a practical level, where for example FX forwards which settle at maturity are closed out by offsetting forwards, the impact of applying counterparty exposure limits at share class level may result in UCITS being required to execute multiple transactions on a more frequent basis (e.g. weekly rather than monthly FX forwards) resulting in high bid-offer costs.

Does the Central Bank intend providing guidance as to how this counterparty exposure at share class level should be measured and monitored and how it should interact with the overall fund counterparty exposure limits? Noting this requirement derives from the Opinion, this may be an issue for the Central Bank to discuss further with ESMA.

- Regulation 27(3)(g). Currency hedging stress tests should only be required where the hedging activity presents a risk that losses relating to the relevant transactions attributable to a specific share class could exceed the net asset value of the share class.

  Some funds can struggle to adjust their hedges on a timely basis after a large redemption (e.g. if dealing deadline and valuation point are the same) as such we would suggest permitting funds where appropriate, to for example, apply a 10% gate for one day at share class level, such a gate would protect the investors and a redeeming investor would only potentially suffer a maximum delay of 1 day.

- Regulation 27(4). Stress tests required in this context should not be aligned with stress tests required under Regulation 22. The conditions in Regulation 22 are relevant and applicable for UCITS that use VaR to calculate global exposure. These conditions are prescriptive and specific to the use of VaR. They are not relevant for currency hedging risk. It would be more appropriate for specific conditions for currency hedging risk stress tests to be developed by the Central Bank and set out in guidance.

Section III: UCITS Performance Fees

Question 3:
Stakeholders are invited to provide comments and observations on the performance fee provisions being included in the Central Bank UCITS Regulations.

- We note that the Central Bank has sought to follow the recommendations in IOSCO's paper "Good Practice for Fees and Expenses of Collective Investment Schemes" (the "IOSCO Paper")[1], regarding performance fees crystallising no more frequently than once per year. The Central Bank appears to be front-running co-ordinated EU legislation on this issue. Given that this is an area that impacts business domiciled domestically and marketed on a cross-border basis across Europe, we believe that the matter is best dealt with at a European level by ESMA so that there is a harmonised approach across the single market. While we appreciate these proposals emanate from the IOSCO Paper, we believe a consistent application should be a serious consideration given the numbers of funds domiciled in a variety of jurisdictions with different methodologies in situ with significant variability in the rules pertaining to acceptable methodologies.

- Given there are currently many different methodologies used in the calculation of performance fees. We have a concern that by prescribing the rules around

[1] http://www.iosco.org/library/pubdocs/pdf/IOSCOPD543.pdf

irish funds

performance fees within the regulations, rather than within guidance, this may reduce and limit the number of ways to calculate performance fees, thus reducing the appropriate flexibility that UCITS have in this area. A key consideration is the result of the interaction of the various features of a performance fee methodology as opposed to strict rules governing individual elements in isolation.

- Notwithstanding our request that any performance fee requirements be contained in Guidance rather than Regulation, to accommodate the various methodologies used in the calculation of performance fees and to ensure a performance fee is only payable for positive performance/outperformance we believe it important that the references in Regulation 41 to "net asset value per share" be amended to "net asset value per share or net asset value (as adjusted for subscriptions and redemptions), as appropriate". We believe this better captures the spirit and intent of the proposals.

  A simple example to demonstrate the issue is set out below. The example assumes an absolute return fund and no benchmark.

  1. Start: NAV = 100 (sub of 100 shares for $100) (NAV per share = 1)
  2. Drawdown: NAV =90 (NAV per share = 0.9)
  3. Large subscription (of 700 shares for $630): NAV = 720 (NAV per share = 0.9)
  4. Positive performance: NAV = 760 (NAV per share = 0.95)
  5. Crystalisation point at 4 above: overall performance has been positive. After subs and reds, the fund is up by $30 [760-730]. So a performance fee should be payable, but the NAV per share is down.

  If not amended the unintended consequence would force funds to have to change from class-level or fund-level accounting, which is a very simple and common form of performance fee accounting to more complex methodologies such as equalisation or series. The benefits of having to do so from a supervisory perspective are unclear and introduce unnecessary operational challenges, including for intermediaries holding interests via omnibus accounts, who would likely need to restructure their holdings, changing from one omnibus account to multiple accounts, one per underlying investor.

- While guidance and the promotion of best practices in this area is welcome, it is submitted that it is not appropriate at this point to codify a minimum annual calculation period into Irish UCITS legislation. We are not aware of any other jurisdiction that have taken the approach of implementing the non-binding recommendations of the IOSCO Paper as regulation.

- However, whether a minimum annual calculation period ensures, in all cases, more equitable treatment for investors is not clearly accepted either academically or across industry. We have received feedback that annual performance periods for performance fees can often be less equitable than shorter performance periods. In particular, we have received quantitative analysis (which we would be pleased to share with you) reflecting that an annual period can result in a higher performance fee in various scenarios than a quarterly period. We believe that the core consideration is ensuring alignment of the performance fee period and the

irish funds

crystallisation period as well as striving to ensure equity for different cohorts of investors (those subscribing, redeeming and those remaining in the fund).

- The fact that this requirement should not apply in all cases is even acknowledged in the IOSCO Paper which indicates that such a minimum annual calculation period should not be a requirement where the fund uses a "fulcrum fee arrangement". We believe the Central Banks intention with respect to the proposed inclusion of requirements around performance fees is to reflect the IOSCO Paper, as such if the Central Bank proceeds to reflect performance fee requirements in Regulations, we believe it important that the Regulations accommodate this also.

- Regulation 41(4) details requirements that a performance fee does not crystallise more than once per year and is not paid more than once per year. However, the Regulation does not provide for the crystallisation of a performance fee, and the timing of the payment of a performance fee, relating to a redemption. Typically, a performance fee crystallises and is paid (i) with a regular, prescribed frequency; or (ii) when appropriate, upon a redemption. The IOSCO Paper also recognises that the effective performance of the investor's CIS investment "depends on the particular points in time when they acquire and later dispose of the shares/units.[2]" We suggest, therefore, that this practice is reflected in the Regulation in order that clarity is provided in relation to the treatment of performance fees when a redemption occurs. See point 16 in Appendix II below for further details.

- Regarding the transitional requirements in Regulation 130(2), does the Central Bank anticipate UCITS should obtain investor approval if making changes to their performance fee model assuming the changes are restricted to compliance with the Regulations? Guidance in this respect would be helpful for affected UCITS.

- We would also suggest that the Central Bank gives appropriate consideration to the transition period owing to the operational complexity in organising the necessary EGMs in potentially multiple markets and ensuring that changes are implemented in an organised and controlled manner.

Question 4:
Stakeholders are requested to indicate whether further requirements are necessitated to better regulate the charging of performance fees by UCITS.

See responses to Question 3 above.

[2] IOSCO Paper paragraph 34

irish funds

<u>Section IV: Amendments to UCITS MMF Provisions in light of MMFR</u>

Question 5:
Stakeholders are requested to indicate whether they agree with the amendments proposed and to provide any observations / comments.

See points 30, 31 & 32 in Appendix II.

irish funds

Appendix II

ADDITIONAL COMMENTS ON THE DRAFT 2018 CONSOLIDATED CBI UCITS REGULATIONS:

	Regulation Reference	Comment	Suggested amendment
1.	Interpretation, Regulation 2(1); "supervisory and regulatory requirements"	This term is not used in the document. Query why this definition has been added.	Suggest removing this reference.
2.	Regulation 9(6)(a)	Regulation 9(6)(a) should be supplemented with the highlighted text herein, consistent with the full terms paragraph 54 of the ESMA Guidelines (rather than one section thereof only).	"that rebalances on an intraday or daily basis, or the rebalancing frequency of which prevents investors from being able to replicate the financial index. Technical adjustments made to financial indices (such as leveraged indices or volatility target indices) according to publicly available criteria should not be considered as rebalancing in the context of this paragraph;"
3.	Regulation 10	The conditions in Regulation 10 regarding the subsidiary are overly prescriptive and do not reflect, for example, non-corporate subsidiaries where the executive function is not necessarily conducted by a board of directors. We propose the alternative condition (see highlighted text) that the UCITS otherwise demonstrates, to the satisfaction of the Central Bank, that it can exercise full executive control over the subsidiary. Additionally, sub-clauses (g) to (k) of Regulation 10 should be qualified	A responsible person shall not establish a subsidiary unless the following conditions have been satisfied: the prior approval of the Bank to establish a subsidiary has been received; (b) the subsidiary must be wholly owned and controlled by the UCITS and, in particular, the directors of either the UCITS investment company or the UCITS management company or both must form a majority of

		to state that these conditions will only apply, to the extent that they are appropriate to the legal structure of the subsidiary.	the board of directors of the subsidiary; or (c) as an alternative to (a) and (b), if these conditions are not appropriate to the legal structure of the subsidiary, the UCITS otherwise demonstrates to the satisfaction of the Bank that it can exercise full executive control over the subsidiary."
4.	Regulation 25(4)	Regulation 25(4) states that "a responsible person shall not sell, pledge, or re-invest the non-cash collateral received by the UCITS". This would appear to conflict with Regulation 34(7) of the UCITS Regulations which provides that assets held in custody can be "reused". It would appear to be contradictory to retain a prohibition on re-use when UCITS V now sets out conditions that apply to such activity.	
5.	Regulation 27(2)	Consistent with ID1030 of the Central Bank's UCITS Q&A, this provision should reflect that there are permitted exceptions to this requirement.	"A responsible person shall ensure that all share classes within the UCITS or sub-funds thereof have the same dealing procedures and frequencies, except as otherwise permitted by the Bank."
6.	Regulation 27(3)(a)	As discussed in Section I above.	"ensure that over-hedged positions do not exceed 105 per cent and under-hedged positions do not fall below 95 per cent of the portion of the net asset value of the ~~hedged currency~~ share class which is to be hedged against currency risk."
7.	Regulation 27(3)(g)	As discussed in Section I above.	"where the hedging activity presents a risk that losses relating to the relevant transactions attributable to a specific share class could exceed the net asset value of the share class, implement

			stress tests to quantify the potential impact of losses on all share classes within the UCITS in the event of a share class exceeding its net asset value. The results of such stress test shall be made available to the ~~Central~~ Bank on request."
8.	Regulation 27(3)(l)	As discussed in Section I above. Additionally, amendments made to adjust the language in line with the Opinion. Also, consideration should be given to how this cross-refers to Regulation 16.	"ensure that the exposure to any counterparty of a derivative transaction is in line with the limits laid down in ~~exposure is assessed at the level of the share class in accordance with~~ Regulation 70(1)(c) of the UCITS Regulations in respect to the net asset value of the share class."
9.	Regulation 27(4)	As discussed in Section I above.	The responsible person shall ensure that the stress tests required under paragraph (3)(g) are conducted in accordance with ~~Regulation 22~~ the Central Bank's guidance."
10.	Regulation 32(2)(a)	Remove reference to "*ETF*". We see no objective reason to restrict the facilities provided for in this section to ETFs.	"This paragraph does not apply to a UCITS ~~ETF~~ the original subscription to which was made in specie".
11.	Regulation 34(1)(a)	Consistent with ID1029 of the Central Bank's UCITS Q&A.	"Subject to subparagraph (*b*), a responsible person shall not accept an application for subscription or redemption of units in a UCITS after the dealing deadline and such application may instead be held over and dealt with on the next dealing day."
12.	Regulation 34(2)	Accommodation should be made for scenarios where proceeds may not be payable within this timeframe – for example, where customer identity verification documents are outstanding. This change is consistent with use of the term "*normally*" in section 2.14.15 of the	"A responsible person shall normally pay the redemption proceeds to a redeeming unit-holder within ten business days of the relevant dealing deadline."

		Central Bank's UCITS application form.	
13.	Regulation 34 (4)	Regulation 34(4) provides that a UCITS should notify the Bank immediately when a temporary redemption suspension has been lifted. It further provides, that without prejudice to the requirement to notify when the suspension has been lifted, an update must be provided to the Bank within 21 working days of the suspension being applied. As currently drafted it appears that this notification is required even where the lifting of the suspension has been notified. Presumably this is a typographical error?	
14.	Regulation 37	Consistent with ID1055 of the Central Bank's UCITS Q&A.	"A responsible person shall value the assets of a UCITS in accordance with Schedule 5 unless an alternative method of valuation has been agreed in advance with the Bank (which shall be the case for UCITS authorised before 1 November 2015 where the UCITS' prospectus has been noted by the Bank) or the Bank has, in advance of a valuation date, required the responsible person to adopt an alternative method of valuation."
15.	Regulation 39	Consistent with ID1042 of the Central Bank's UCITS Q&A.	"A responsible person may apply an anti-dilution levy to a UCITS only if the constitutional document of the relevant UCITS ~~provides~~ contains a provision to the effect that…"
16.	Regulation 41(3)	Amendment made to align with existing guidance. There is no apparent need to adjust this and it was not referenced as an intentional change in CP119. We propose including also a reference to the investment	"Where performance fees are payable on the basis of out-performance of an index, the responsible person shall ensure that (a) the index is ~~consistent with~~ relevant in the context of

irish funds

		objective. A benchmark can have relevance to a UCITS' stated investment objective.	the UCITS investment objective and/or policy,"
17.	Regulation 41(4)	As per our response to question 3 in Appendix I above, it would not appear to be appropriate and consistent with the IOSCO recommendations to require annual performance fee crystallisation where the method of calculating the performance fee means that it increases or decreases proportionately with the investment performance of the fund, in relation to the returns from an appropriate securities index. Also, provision should be made for the crystallisation of a performance fee on a redemption. Also, it should be clearly stated that performances fees may continue to be accrued as at each valuation point.[3]	(4) Subject to paragraph (5), for UCITS that utilise the performance fee model outlined in Regulation 41(1)(b), in~~In~~ calculating the performance fees payable, the responsible person may accrue for performance fees as at each valuation point but shall ensure (a) that the calculation of the performance fee does not crystallise more than once per year, and (b) the performance fee is not paid more than once per year. (5) A UCITS may treat a redemption of units as a crystallisation event for the purposes of calculating and paying a performance fee. "
18.	Regulation 43	Consistent with ID1032 of the Central Bank's UCITS Q&A.	"In this Chapter, "connected person" means the management company or depositary to a UCITS; and the delegates or sub-delegates of such a management company or depositary (excluding any non-group company subcustodians appointed by a depositary); and any associated or group company of such a management company, depositary, delegate or sub-delegate. The appointment by a UCITS of service providers to carry out services or the dealing in units in UCITS are not transactions for the purposes of this Chapter."

[3] IOSCO Paper paragraph 36 (second bullet)

19.	Regulation 57(2)(a)	Introducing the concept of "anticipated", consistent with ID1043 of the Central Bank's UCITS Q&A.	"in relation to each of the categories of assets in which it may invest, whether the UCITS ~~will take~~ anticipates taking long positions or short positions or both; and"
20.	Regulation 57(2)(b)	The flexibility that was introduced by the change made in the Second Amending Central Bank UCITS Regulations was most welcome. However, this disclosure remains problematic. We appreciate the Central Bank wishes to require a disclosure is made as to the extent of short exposure anticipated in a UCITS that takes short positions. It is submitted this can be achieved in a range of ways and that, provided the net effect is that investors will know if the fund can take short positions and to what extent this might be, the Central Bank should not need to prescribe the precise form of this disclosure in the Regulations. Accordingly, we would propose that the current Regulation 53(2)(b) is removed entirely and replaced with the following:	"~~either (i) the percentage, relative to the net asset value, of the anticipated - (I) maximum value of the long positions, and (II) maximum of the absolute values of the short positions, or~~ ~~(ii) the anticipated maximum of the ratio of the value of the long positions to the absolute value of the short positions~~ a description of the extent to which the UCITS anticipates taking such short positions, relative to the overall value of the Fund."
21.	Regulation 61(2)(d)	Consistent with ID1082 of the Central Bank's UCITS Q&A.	"a description of the impact of any reverse leverage;" (i.e. short exposure);"
22.	Regulation 74(2)	Paragraph (b) of Regulation 74(2) appears to relate to hedging at portfolio levels and not hedging at share class level. Perhaps the Bank could review and consider if this reference is best placed under another heading?	
23.	Regulation 74(3)(c)(ii)	As discussed in Section I above.	"a statement that over-hedged positions shall not exceed 105 per cent of the net asset value of the class; and under-hedged positions shall not fall below 95 per cent of the portion of the net asset value of the class

			which is to be hedged against currency risk."
24.	Regulation 82	In the case of ICAVs, the sub-funds may be presented in separate financial statements, rather than as a single annual report covering all of the sub-funds. Often new sub-funds are launched in the final days of the financial year, with the first annual report of those sub-funds covering a very limited period at disproportionate cost. We propose that Regulation 82 is amended to reflect that, in the case of ICAVs and other legal structures which allow separate annual reports for each sub-fund, where a sub-fund has a potential initial period of less than 2 months, those sub-funds may opt for an extended initial period in the annual report up to the date of the balance sheet in the following year.	
25.	Regulation 99 (3)(b)(ii) and Regulation 118(3)(a)(ii)(ii)	The proposed publication time for the bi-annual management accounts (within two months of the end of the relevant period for the first set and within one month of the relevant period for the second) poses practical issues (noting audited accounts also being prepared for submission within four months of the year end). Changes proposed to both sections.	"submit the accounts for the full twelve months of the relevant financial year to the Bank within ~~one~~ two months of the end of the relevant period, and"
26.	Regulation 102(2)	Regulation 102(2)(a)-(h) contain provisions outlining obligations in relation to the ten (pre-CP86) management functions. However, Regulation 102(1)(a) and Schedule 10 reference the six (post-CP86) management functions. The provisions of Regulation 102(2) should be revised to align with the six management functions outlined in Schedule 10 and all legacy references to the pre-CP86 ten management functions and how they should be discharged should be removed from the Regulations.	

27.	Regulation 108(2)(a)	This requirement should contain a materiality threshold.	"(a) any material breach of the UCITS Regulations or of the Bank's requirements that are applicable to the relevant UCITS or to the management company (including these Regulations);"
28.	Regulation 108(2)(c)	This requirement should contain a materiality threshold.	"the bringing of any significant legal proceedings by or against the relevant UCITS or the management company;"
29.	Regulation 6(3)	Does Regulation 6(3) apply to a UCITS that is not a MMF and which holds money market instruments? The references to funds authorised pre and post the application of the MMFR suggest that it applies to UCITS MMFs only. Should Regulation 6(3) be construed together with Regulation 37 and Schedule 5(6) in the context of non-MMF UCITS funds that hold money market instruments?	
30.	Regulation 131(1)	There is a number of Regulations which cover the same ground as MMFR and which should, as a result and similar to Regulations 89 etc., be disapplied for MMFs. These are: ▪ Regulation 7 relating to investment in deposits (covered by MMFR Regulations 12 and 17-23); ▪ Regulation 8 relating to the purposes of FDI investment and the types of counterparty (covered by MMFR Regulations 13 and 17-23); ▪ Regulations 24 – 26 relating to EPM and collateral, which is covered in MMFR by various regulations relating to repos and FDIs (MMFR Regulations 13-15 and 17-23);	This Regulation shall apply to the following Regulations: (a) in Regulation 2, the definition of WAM and WAL; (b) Regulation 6(3)(a); (c) ~~Regulation 25(5)(e)~~ Regulations 7 and 8; (d) Regulation 24 to 26, inclusive; (~~d~~e) Regulation 85; and (~~e~~f) Regulations 89 to Regulation 93, inclusive.

31.	Regulation 131(1)(e)	Please confirm it is intended to disapply Regulation 93. Regulation 93 relates to ECB monthly and quarterly reporting requirements around MMFs that fall under the definition of a "money market fund" in Article 2 of "Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (recast) (ECB/2013/33)". It is not clear whether the intention is to disapply this provision, particularly as the legislative reference has been updated in the consolidating regulations and there are no references in the MMFR to this requirement (which contains certain adjustments including as regards to frequency of reporting under Article 37 MMFR).	
32.	Regulation 131(2)		The Regulations specified in subparagraph (1) apply to UCITS that is a money market fund as defined in Regulation 85 and which was authorised by the Bank prior to 20 July 2018, until ~~21 January 2019~~ the date on which such UCITS becomes authorised under the Money Market Funds Regulations or 21 January 2019, whichever is sooner."
33.	Schedule 5 (6)	In what circumstances is the amortised cost method per Schedule 5(6) intended to apply?	
34.	Schedule 7 (item 5) and Schedule 8 (item 6)	Changes proposed to both sections in order to allow for a practical and consistent implementation of the option to present open financial derivative positions on a condensed basis where a UCITS holds a high volume of positions.	"In the case of open financial derivative positions, a full portfolio statement with disclosure for all open positions shall be provided. Alternatively, where the volume of positions is high, the portfolio statement can be prepared on a condensed

			basis listing individual open financial derivative positions representing 5% or more of net assets individually and any other open financial derivative positions that individually represent less than 5% of net assets on an aggregated basis analysed by the following groupings: (a) each derivative type; (b) each derivative type by currency and maturity; (c) each derivative type by industry sector; (d) each derivative type by geographic region. An election to prepare the portfolio statement on a condensed basis may be made either for any individual derivative type or alternatively for each and all derivative types. For each derivative type within the respective groupings the leverage generated by those derivatives must be provided either on an aggregate basis for each derivative type or for each of the above groupings (a) to (d). The overall leverage for each grouping should be consistent. The leverage approach used for this purpose is to be consistent with the approach used by the UCITS per paragraph (12) of Schedule 9 to the UCITS Regulations and in accordance with that outlined in the UCITS Risk Management Process (ie Sum-of-the-Notionals or Commitment approach).

irish funds

			Open financial derivative positions representing less than 5% of net assets should be aggregated in so far as open derivatives in an asset and liability position are not offset and in the case of OTC derivatives they are held with the same counterparty. Counterparties to OTC derivatives shall be identified either on an aggregate asset and liability basis (without offset) for each derivative type or for each of the above groupings (a) to (d). Where a condensed portfolio statement is presented, the UCITS must make the full portfolio statement available to investors on demand free of charge;”
35.	Schedule 7 (item 22) and Schedule 8 (item 15)	The proposed requirement to disclose all share classes in annual and half-yearly reports may be impractical for UCITS with large numbers of share classes. We recommend that this disclosure requirement is limited to share classes that have been in issue at any time during the reporting period rather than all shares classes available which may not have yet been issued. This better reflects the nature of annual and half-yearly reports which aim to provide investors with an overview of activities undertaken by the relevant UCITS during the reporting period.	An up-to-date list of all share classes of the UCITS in issue at any time during the reporting period, identifying whether the relevant share class is hedged.