Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Feedback Statement Consultation Paper 161:

Consultation on proposed amendments to the Central Bank UCITS Regulations and the Central Bank Guidance on performance fees for UCITS and certain types of Retail Investor AIFs

July 2026

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Introduction

On 9 September 2025, the Central Bank issued Consultation Paper 161[1] (**CP161**) proposing to repeal and replace the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019 (the **Central Bank UCITS Regulations**). The purpose of this is to ensure alignment of the Central Bank's framework with the Directive (EU) 2024/927 (the **Amending Directive**) as transposed into Irish law by the European Union (Undertakings for Collective Investment in Transferable Securities)(Amendment) Regulations 2026 updating S.I. No. 352/2011 – European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 by the Department of Finance (**the Department of Finance UCITS Regulations**). The Central Bank is using this opportunity to update the framework to take account of domestic policy developments since the current Central Bank UCITS Regulations were published.

CP161 also proposed updating the Central Bank Guidance on performance fees for UCITS and certain types of Retail Investor AIFs (the **Guidance on Performance Fees**).

The Central Bank sought the views of stakeholders on the proposed amendments and the consultation process closed on 5 November 2025.

This Feedback Statement provides an overview of the written submissions received and a discussion of the key issues raised by respondents in response to CP161.

Summary

The Central Bank would like to thank all stakeholders who made submissions to CP161. In total there were nine written responses. Seven of these responses were endorsing the response provided by Irish Funds.

Having carefully considered all the feedback, the Central Bank has decided to make certain further amendments which are now reflected in the final updated Central Bank UCITS Regulations and the final updated Guidance on Performance Fees. These include:

- The Central Bank has amended certain definitions to ensure full alignment with the Department of Finance UCITS Regulations and the ESMA guidelines on performance fees in UCITS and certain types of retail investor AIFs (the **ESMA Guidelines on Performance Fees**).

[1] https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp161/cp161-proposed-amendments-to-central-bank-ucits-regulations-and-guidance-on-performance-fees-for-ucits-and-certain-types-of-retail-investor-aifs.pdf?sfvrsn=acb7691a_6

- The Central Bank has decided to retain the existing provisions related to UCITS investing in money market instruments (MMIs) and the use of amortised cost as a valuation method, providing that this method does not result in a material deviation from the mark-to-market valuation.
- In respect of the new requirements for liquidity management tools (LMTs) which are set out in Annex IIA of the Amending Directive (as transposed in Schedule 5A of the Department of Finance UCITS Regulations), the Central Bank:
  - has clarified and amended certain provisions to align with terminology used in the Amending Directive;
  - has retained the proposed requirement for the responsible person of the UCITS to consider selecting at least one anti-dilution tool and one quantitative-based tool from Annex IIA of the UCITS Directive. The Central Bank considers it important to ensure that the responsible person of the UCITS considers the merit in selecting at least one of each type of LMT[2]. The requirement is not mandatory but has been recommended by both the Financial Stability Board (FSB) and the International Organisation of Securities Commissions (IOSCO) to address structural vulnerabilities from liquidity mismatch in investment funds and to support the greater and consistent use of LMTs with the aim of strengthening of liquidity management practices.
- The Central Bank has addressed potential legislative impediments to the operation of hurdle rates, fulcrum fees or other symmetrical fee models by removing the binary restriction in current Regulation 40(1) and permitting a broader range of performance fee methodologies in line with the European framework. The restriction on frequency of payment has been replaced with a restriction on frequency of crystallisation of the performance fees, and is subject to a number of exceptions.
- The Central Bank has clarified the depositary's obligations in relation to performance fees so that the responsible person shall ensure that the depositary (or a competent person appointed by the responsible person and who is approved by the depositary) verifies that procedures have been effectively implemented to ensure that any performance fees payable and accrued pursuant to the UCITS performance fee

[2] **Anti-dilution tools (ADTs)** are **price-based mechanisms** designed to protect remaining investors by ensuring that redeeming or subscribing investors bear the transaction costs (explicit and implicit) of their actions, such as market impact.
Quantitative-based tools (Q-LMTs) are **volume-based restrictions** designed to limit or spread out redemption requests to manage liquidity, especially in stressed market conditions.

payment cycle are calculated in accordance with the constitutional document and prospectus of the UCITS.

- The Central Bank has clarified the provision around transactions involving connected parties and the scope of the requirements.
- The provision requiring UCITS to disclose existing "pro forma" standardised language in relation to anti-dilution levies has been deleted. This provision is no longer necessary given the application of the European framework to anti-dilution tools and the fact that the Central Bank requires disclosure of all selected LMTs in the prospectus of the UCITS. As a result of the removal of this provision, the Central Bank has also removed current Regulation 38 of the Central Bank UCITS Regulations to ensure there is no overlap with new LMT requirements.
- The Central Bank is retaining current requirements in Regulation 107 in respect of the relationship between the UCITS management company and the Central Bank.

The Central Bank has given careful consideration to stakeholder comments received, however the following provisions have been retained by the Central Bank as consulted on:

- The Central Bank is introducing a prospectus disclosure requirement for NAV-based fees. This is an important addition to the disclosure framework to improve fee transparency for UCITS investors. The Central Bank has identified that certain fees, including research fees which were calculated on the basis of the NAV of the UCITS and deducted from the fund's assets were not being clearly disclosed to investors. The Central Bank has observed that disclosure of NAV based fees is currently being required at the point of authorisation and there have been instances where it has been provided under management fees. The Central Bank has observed that the full split of these types of fees is not typically being provided and that further transparency is important for investors.
- The Central Bank considered a submission detailing concerns in relation to the Central Bank's discretion to impose additional requirements beyond the minimum residency requirements for directors and designated persons of UCITS managements companies at the point of authorisation based on the nature, scale, and complexity of the entity. The Central Bank's discretion to exercise supervisory judgement and to impose additional requirements where necessary is consistent with the Central Bank's risk-based, proportionate and outcomes focused approach to supervision. This

regulatory approach ensures that regulations fit an entity's activities and size, not just a one-size-fits-all model.

In relation to the Guidance on Performance Fees, the Central Bank has made a number of drafting amendments to ensure that provisions are consistent and aligned with the new Central Bank UCITS Regulations and the ESMA Guidelines on Performance Fees.

Part 1 – Preliminary and general

Question 1.1: Current Regulation 1 – Citation

Proposal:

The Central Bank UCITS Regulations are currently cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019. The Central Bank proposed to update the citation reference for the Central Bank UCITS Regulations following publication of the amended Regulations after the consultation.

Feedback:

The majority of respondents agreed with the proposed changes to current Regulation 1 of the Central Bank UCITS Regulations.

Response:

The Central Bank will proceed with this proposal.

Question 1.2: Current Regulation 2 – Interpretation

Proposal:

The Central Bank proposed to amend the current Regulation 2 of the Central Bank UCITS Regulations to update, include or remove definitions as required and to ensure alignment with definitions set out in other relevant EU legislation or ESMA guidelines, where appropriate.

Feedback:

Overall, respondents agreed with the proposed changes. Stakeholders suggested a number of technical amendments to the section, including: the removal of the proposed definition of "fund managed in reference to the benchmark"; the replacement of the term "index" with "benchmark" in both current Regulation 40 of the Central Bank UCITS Regulations and the Guidance on Performance Fees; and the use of the term "reference indicator" instead of "benchmark" in the definition of "performance reference period".

The majority of respondents requested that the proposed definitions of "unitholder" and "units" be amended to include a reference to the Irish Collective Asset-management Vehicle (ICAV).

Response:

The Central Bank has removed definitions including "fund managed in reference to a benchmark" and "hurdle rate" from the Central Bank UCITS Regulations. The Central Bank has introduced a definition of “reference indicator” and used the term “reference indicator” in the definitions of “fulcrum fees” and “performance reference period”. The approach of the Central Bank has been to address legislative impediments to the operation of certain performance fee models permitted in the ESMA Guidelines on Performance Fees.

As per current Regulation 2(3) of the Central Bank UCITS Regulations, definitions used in the Department of Finance UCITS Regulations also apply to the Central Bank UCITS Regulations. As such, the meaning of the term “investment company” already includes an ICAV and therefore no amendment has been made in this regard.

Part 2 – Restrictions on UCITS

Question 2.1: Current Regulation 6 – Money-market instruments

Proposal:

The Central Bank proposed to amend current Regulation 6 of the Central Bank UCITS Regulations to apply provisions in respect of the controls for when amortised cost valuation deviates significantly from the mark-to-market valuation to non-MMF UCITS investing in MMIs.

Feedback:

Respondents commented that the proposed changes do not fully take account of the specifics of some MMIs held by non-MMF UCITS. They questioned the relevance of applying a provision originally designed for MMFs, which would restrict the amortised cost method to circumstances where mark-to-market and amortised cost valuations differ by no more than 10 basis points. Respondents further noted that the existing wording permitting the amortised cost method where it does not result in “a material discrepancy” with the mark-to-market value should be retained.

Response:

Based on the feedback received, the Central Bank will retain the existing provisions. Minor amendments were made to remove outdated date references for UCITS authorised as MMFs at the end of the current Regulation.

Question 2.2: Current Regulation 24 – Collateral

Proposal

It was proposed to delete current Regulation 24(5), sub-paragraph (e), of the Central Bank UCITS Regulations as this provision refers to an expired transitional arrangement.

Feedback:

Respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank is proceeding with this proposal.

Question 2.3: Current Regulation 26 – Creation of share classes in a UCITS

Proposal:

The Central Bank proposed retaining the rule set out in current Regulation 26(2) of the Central Bank UCITS Regulations that all share classes within the UCITS or sub-funds must have the same dealing procedures and frequencies, but with a derogation for UCITS ETFs in line with the UCITS Q&A ID 1030.

Feedback:

The majority of respondents supported the inclusion of new provisions enabling UCITS ETFs to have different dealing cut-off times for cash and in-kind dealings including where a UCITS ETF with hedged and unhedged share classes implements currency hedging at share class level. Respondents suggested a specific amendment to ensure that it is clear to market participants that a UCITS ETF is permitted to avail of these new provisions without the need to apply for a specific derogation.

Response:

The Central Bank has incorporated the proposed amendment from respondents to clearly provide that any UCITS ETF may automatically avail of these new provisions without having to separately apply for a waiver. As market participants will no longer be required to apply to the Central Bank for individual derogations from the current Central Bank UCITS Regulations, UCITS Q&A ID 1030 is no longer required and will be deleted.

Question 2.4: Current Regulation 31 – Dealing in specie

Proposal:

The Central Bank proposed to differentiate between in-specie/ in-kind redemption as an LMT and the "exchange of securities" in the settlement of redemptions to ensure, where a fund uses exchange of securities as part of its normal redemption process and this is not a LMT, it is clearly differentiated from requirements under the relevant LMT provisions that have been transposed into Irish law by the Department of Finance UCITS Regulations.

Feedback:

Respondents broadly agreed with the changes proposed to this Regulation and suggested that the reference in the current Central Bank UCITS Regulations to the "original" subscription is not relevant in the context of UCITS ETFs, which facilitate both cash and in-kind subscription and redemption. It was also suggested that the wording "redemption mechanism" be used instead of the term "redemption" in the provision requiring UCITS providing exchange of securities in order to meet a redemption request to disclose such "redemption mechanism" in the constitutional document.

Response:

The Central Bank notes the use of redemption in kind by a UCITS ETF in the normal course of regular dealing activities by an authorised participant or market-maker, and has removed wording requiring that, in the case of UCITS ETFs, the original subscription be made in-kind from the final draft Central Bank UCITS Regulations. The Central Bank does not consider sufficient rationale has been provided to use the wording "redemption mechanism" instead of "redemption" and therefore no amendment has been made in this regard. The Central Bank has widened the term "exchange of securities" to "exchange of assets" in line with the approach being taken in the AIF Rulebook. Finally, the Central Bank has made minor adjustments to the structure of the provision to enhance clarity.

Question 2.5: Current Regulation 33 and Chapter 7 – Subscriptions and redemptions, Dealing

The proposed amendments to current Regulation 33 and Chapter 7 of the Central Bank UCITS Regulations introduced distinct regulations setting out requirements in respect of LMTs, including general operational requirements for LMTs and rules on suspensions, side pockets, swing pricing and redemption gates.

a) **General operational requirements for LMTs**

Proposal:

The Central Bank proposed requiring the responsible person to consider selecting at least one quantitative-based LMT and at least one anti-dilution tool, and proposed introducing a number of new LMT disclosure and notification requirements.

Feedback:

Respondents requested the removal of provisions that could be considered to duplicate requirements that will be contained in legislation transposing the Amending Directive and the Regulatory Technical Standards (the **RTS**) specifying the characteristics of LMTs and ESMA Guidelines on LMTs.

Regarding the requirement to notify the Central Bank without delay of the activation and de-activation of LMTs, respondents suggested that the Central Bank would remove this notification requirement and confirm such information would be contained in the Daily Investment Funds Return report.

Response:

The Central Bank has considered the above feedback and decided to retain the requirement for the responsible person of the UCITS to consider selecting at least one anti-dilution tool and one-quantitative based tool from Annex IIA of the UCITS Directive, as transposed into Irish law in Regulation 28A of the UCITS Regulations. This requirement is subject to the derogation in Regulation 28A(4) of the UCITS Regulations for UCITS authorised as a MMF under the MMFR. This represents a proportionate approach that seeks to accommodate investor protection and prudential considerations, whilst remaining at the discretion of the responsible person of the UCITS. This aligns with the FSB and IOSCO revised policy recommendations to address structural vulnerabilities from liquidity mismatch in investment funds to support the greater and consistent use of LMTs with the aim of achieving a significant strengthening of liquidity management.

The Central Bank has removed the requirement to notify the Central Bank when it activates or deactivates any LMT other than in the ordinary course of business. LMT notification requirements will continue to be required in the Daily Investment Funds Return report.

b) Suspensions

Proposal:

The Central Bank proposed to amend existing provisions related to suspensions in the Central Bank UCITS Regulations to require that the responsible person notifies the Central Bank where it activates or deactivates the suspension of the calculation of the NAV of the UCITS and/or the suspension of subscriptions, repurchase and redemption of the units of the UCITS immediately upon such activation or deactivation taking effect, including where such activation or deactivation is exercised pursuant to Article 84(2)(b) of the UCITS Directive.

Feedback:

In relation to provisions outlining requirements for suspensions, respondents requested that the obligation for the responsible person to notify the Central Bank where it activates or deactivates the suspension of the calculation of the NAV of the UCITS and/or the suspension of subscriptions, repurchase and redemption of the units of the UCITS immediately upon such activation or deactivation taking effect be removed, noting that this requirement will be covered by the revised Department of Finance UCITS Regulations. Respondents further noted that the reference to the suspension of the "calculation of the net asset value" and the wording "immediately" are not in line with the Amending Directive.

Response:

The Central Bank has amended the proposal to require the responsible person to notify the Central Bank "without delay" when suspensions are activated. Given the emergency nature of the power set out in Article 84(2), point (b), of the UCITS Directive, the responsible person of a UCITS domiciled in a Member State other than Ireland must notify the Central Bank “without delay” when the competent authority of the UCITS home Member State exercises this power. The Central Bank is retaining reference to the suspension of the “calculation of the net asset value”.

c) Side pockets

Proposal:

The Central Bank proposed to permit the responsible person to establish a side pocket for assets which become impaired, illiquid or difficult to value either by physical segregation or accounting segregation subject to this being provided for in the constitutional document of the UCITS.

Feedback:

Respondents requested the provisions specific to side pockets be removed, noting that these will be covered by the revised Department of Finance UCITS Regulations. Respondents further noted that the wording to describe side pockets in the Central Bank UCITS Regulations is not consistent with the description of side pockets in the Amending Directive.

Response:

The purpose of the provision on side pockets is not to define when a side pocket can be used but to emphasise that while side pockets can be used by all UCITS investment funds, if the UCITS intends to utilise side pockets, the ability to do so must be set out in the UCITS’ constitutional documents. The Central Bank has amended the description of side pockets in this provision to align with the wording to describe side pockets in the RTS on LMTs.

d) Swing pricing

Proposal:

The Central Bank proposed a new provision setting out when swing pricing may be applied to a UCITS.

Feedback:

No feedback was received in relation to this provision.

Response:

The Central Bank has decided to remove this provision. Swing pricing is covered under the “general operational requirements” of LMTs.

e) Redemption gates

Proposal:

In respect of "redemption gates", it was proposed to remove the requirement that a responsible person cannot impose a redemption gate on any dealing day unless the total requests for redemption exceed at least 10% of the total number of units of UCITS or at least 10% of the NAV of the UCITS.

Feedback:

Respondents suggested that a definition of redemption gates with reference to Annex IIA of the Amending Directive be included in the Central Bank UCITS Regulations.

Response:

In order to avoid duplication between the transposing legislative instrument and the Central Bank UCITS Regulations, no definition of the term "redemption gate" with reference to the Amending Directive (as transposed into Irish law) is included in the Central Bank UCITS Regulations.

Question 2.6: Current Regulation 40 – Performance fees

Proposal:

The Central Bank consulted on addressing legislative constraints on performance fees to ensure alignment with the ESMA Guidelines on Performance Fees. The objective is to permit (i) a performance reference period of less than the whole life of the UCITS subject to a minimum of 5 years; (ii) the adoption of hurdle rates, fulcrum fee models or other models which provide for a symmetrical fee structure which can be adjusted up or down depending on relative performance of the UCITS to a benchmark; and (iii) crystallisation of performance fees more frequently than annually for High-Water Mark (HWM) or High-on-High (HoH) models with a performance reference period of the life of the fund which cannot be reset and fulcrum fee models or other models which provide for a symmetrical fee structure.

Feedback:

Respondents provided feedback on the proposed changes with suggested amendments to more fully align with the ESMA Guidelines on Performance Fees.

a) Clarification of available performance fee models

Amendments were proposed to include specific references to different performance fee models in current Regulation 40 of the Central Bank UCITS Regulations, fulcrum fee and symmetrical fee models, HoH and HWM models. In respect of HoH and HWM models, respondents requested that a clear distinction between these two performance fee models be set out.

b) Performance reference period

Respondents requested amendments to clarify that performance fees which are payable on achieving a new high NAV are determined in the context of the performance reference period of the UCITS, that current Regulation 40(4)(b) may not be applicable to HoH and HWM performance fee models, and that where the performance reference period is less than the life of the UCITS that it should be at least five years “on a rolling basis”.

c) Guidance on Performance Fees

Respondents also commented on the changes proposed to the Guidance on Performance Fees, in particular requesting that relevant performance fee provisions in the new Central Bank UCITS Regulations be reflected in the Guidance on Performance Fees, to ensure consistency of the applicable rules and alignment with the ESMA Guidelines on Performance Fees, including:

- aligning descriptions of HoH and HWM performance fee models with relevant provisions in current Regulation 40 of the Central Bank UCITS Regulations;
- amending the definition of “crystallisation frequency” to remove the reference to the responsible person of the UCITS/AIFM and making related drafting amendments to the Guidance as relevant;
- amending the definition of “performance reference period” to replace the reference to “benchmark” with “reference indicator”;
- clarifying that performance fees “could” be charged at an individual unitholder level, and such fees can be charted at a share class/fund level;
- where funds employ HoH, HWM or fulcrum fee models (or equivalent), clarifying whether there is a need to seek a derogation to the requirements that the crystallisation frequency should not be more than once a year and that the crystallisation date is aligned with 31 December or with the end of the financial year of the fund; and correcting related typographical errors in respect of such derogation;
- including the wording “as far as possible” whereby the responsible person of the UCITS/AIFM must assess and remunerate on a time horizon that is consistent with the investor’s recommended holding period, and providing for a transitional period to comply with this requirement;
- specifying that where the performance reference period is less than the life of the UCITS, the performance reference period shall be at least five years “on a rolling basis”;
- clarifying in relevant provisions of the Guidance that the ability to apply a performance reference period of shorter than the whole life of the fund subject to a

minimum period of at least 5 years on a rolling basis is applicable to the High-on-High model;

- providing for a transitional timeframe for the responsible person of the UCITS/AIFM to comply with the requirement to include in the prospectus, the KID and, where applicable, the KIID a warning to investors where a performance fee may be paid also in times of negative performance;
- removing the reference to "index" which is not defined in the Guidance and instead use the defined term "benchmark";
- referring to the "management company" of the UCITS instead of the "responsible person of the UCITS";
- providing for examples in the definition of "reference indicator";
- including a reference to ICAV in the definitions of "unitholder" and "units".

Response:

a) Amendments to performance fee rules in legislation

The Central Bank has amended current Regulation 40 to ensure that there is no legislative impediment to the operation of performance fee models set out in the ESMA Guidelines on Performance Fees, including hurdle rates, fulcrum fees or other types of other symmetrical fee structures.

Current Regulation 40 has been amended to:

- remove the binary restriction in current Regulation 40(1) and permit a broader range of performance fee methodologies in line with the European framework;
- ensure that performance fees are only payable by the UCITS where positive performance, net of any loss or under-performance incurred, has accrued during the performance reference period;
- require the responsible person to ensure that the performance fee methodology is consistent with the UCITS' investment objectives, strategy and policy;
- require the responsible person to ensure that the performance fee is payable only on the amount by which the UCITS outperforms the reference indicator applied under the method for calculation of performance fees;
- permit a performance reference period shorter than the whole life of the fund (subject to a minimum of 5 years on a rolling basis);
- ensure that the performance reference period does not apply to fulcrum fees or other symmetrical fee models;

- replace the restriction on the frequency of payment with a restriction on fee crystallisation. This restriction is subject to the below exceptions:
    - where the UCITS employs a HWM or HoH model and the performance reference period is equal to the whole life of the UCITS and it cannot be reset;
    - where the UCITS employs a fulcrum fee or other symmetrical fee model;
    - where the UCITS is wound-up;
    - where the UCITS merges with another UCITS; or
    - where a unitholder redeems their units in the UCITS.

As stated in the Central Bank's Feedback Statement to CP 134[3], the distinction between the HWM and HoH models is the level at which the performance fee is calculated. Under the HWM performance fee model, performance fees are payable on the basis of achieving a new highest NAV per share or unit during the performance reference period. For HoH, performance fees are payable if the NAV of the fund exceeds the NAV at which the performance fee was last crystallised. This distinction is also set out in footnotes 12 and 13 of the Final Report accompanying the ESMA Guidelines on Performance Fees[4].

b) Amendments to Guidance on Performance Fees

The Central Bank has considered the above feedback as follows:

- has retained the definitions of HoH and HWM performance fee models used in the ESMA Guidelines on Performance Fees;
- has amended the definition of "crystallisation frequency" to remove reference to the responsible person of the UCITS/AIFM and made related drafting amendments to the Guidance as appropriate;
- has retained the definition of "performance reference period" used in the ESMA Guidelines on Performance Fees including reference to "reference indicator";
- has not provided examples in the definition of "reference indicator". The Central Bank notes that examples have been provided in the ESMA Guidelines on Performance Fees;
- has included a reference to ICAV in the definitions of "unitholder" and "units";
- has removed references to "index", in light of the Central Bank's approach to address legislative impediments to the operation of the performance fee models in the ESMA

[3] https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp134/feedback-statement-to-cp134.pdf?sfvrsn=4
[4] https://www.esma.europa.eu/sites/default/files/library/esma_34-39-968_final_report_guidelines_on_performance_fees.pdf

Guidelines and to align with the definitions of “benchmark” and “reference indicator” in the Guidance on Performance Fees;

- has clarified that performance fees may be calculated on a single investor unitholder basis;
- where funds employ HoH, HWM or fulcrum fee models (or equivalent), has included a clarification that the requirements for crystallisation frequency (not more than once a year) and crystallisation date (aligned with 31 December or the end of the financial year) are disapplied;
- has included the wording “as far as possible” in the provision requiring the manager’s performance to be assessed and remunerated on a time horizon that is consistent with the recommended investors’ holding period, where there is negative performance by the fund;
- has specified that where the performance reference period is less than the life of the UCITS, the performance reference period shall be at least five years “on a rolling basis”;
- has not diverged from the ESMA Guidelines on Performance fees by amending the Guidance on Performance Fees so that the ability to apply a performance reference period of shorter than the whole life of the fund subject to a minimum period of at least 5 years on a rolling basis is applicable to the High-on-High model;
- has continued to use “the responsible person of the UCITS” rather than the “management company”.

The Central Bank has made additional amendments to:

- update reference to the Central Bank UCITS Regulations as a result of the publication of the amended regulations following the consultation; and
- clarify that ELTIFs marketed to retail investors that do not have a closed-ended structure and are not venture capital, private equity or real estate AIFs are in scope of the Guidance on Performance Fees. This incorporates the ESMA Q&A ID 1029 on the AIFMD into the Guidance.

Question 2.7: Current Regulation 40 – Performance fees

Proposal:

The Central Bank consulted on whether it would be appropriate to permit entities other than the depositary to perform the function of verifying the calculation of the performance fee.

Feedback:

Respondents noted that the existing rules are not in line with the ESMA Guidelines on Performance Fees and suggested that the provision is amended to clarify that the responsible person of the UCITS/AIFM must ensure that the depositary or the competent person verifies the procedures in place to confirm that any performance fees chargeable are calculated in accordance with the constitutional document and the prospectus of the UCITS.

Respondents further noted that it should be clearly set out in current Regulation 40 of the Central Bank UCITS Regulations and the Guidance on Performance Fees whether the competent person can verify the process and methodology used to calculate the performance fees and/or verify the calculation of the performance fees due.

Response:

The Central Bank has updated the requirement in both the Central Bank UCITS Regulations and the Guidance on Performance Fees so that the responsible person shall ensure that the depositary or a competent person appointed by the responsible person and who is approved by the depositary, verifies that procedures have been effectively implemented to ensure that any performance fees payable and accrued pursuant to the UCITS performance fee payment cycle, are calculated in accordance with the constitutional document and prospectus of the UCITS.

Question 2.8: Current Regulations 42 and 43 – Transactions involving Connected Persons

Proposal:

The Central Bank proposed to amend the term "connected person" to "connected party" and to clarify the meaning of such term which includes a "unitholder".

Feedback:

Respondents suggested that the meaning of connected party be clarified as there is a potential risk that the scope of current Regulation 43 of the Central Bank UCITS Regulations could inadvertently extend to routine fund transactions that fall outside the intended scope of the provision.

Response:

The Central Bank has decided to retain reference to "unitholder" in this Regulation and has clarified the provision around transactions involving connected parties to ensure that the requirements do not apply to transactions by unitholders in relation to their units in a fund (such as subscriptions, redemptions, conversions and dividend payments).

Part 3 – Supervisory requirements

Question 3.1: Current Regulation 47 – Relationship with the Bank

Proposal:

The Central Bank consulted on the requirement to designate an email address for the purpose of corresponding with the Central Bank.

Feedback:

Respondents agreed with the proposed changes but requested an amendment to clarify that the requirement applies at the umbrella level instead of the sub-fund level.

Response:

The Central Bank agrees with the proposed amendment and has reinstated the original wording of this Regulation to clarify that the requirement for a designated email address for correspondence applies at the umbrella fund level rather than at the sub-fund level.

Question 3.2: Current Regulation 48 – Charges for redemption or repurchase of units

Proposal:

The Central Bank proposed to differentiate rules around certain "charges relating to the redemption or repurchase of units" set out in the Central Bank UCITS Regulations from the LMTs listed in Annex IIA of the Amending Directive, (as transposed into Irish law in Schedule 5A of the Department of Finance UCITS Regulations) to ensure differentiation between when a fund imposes standard charges as part of its normal redemption/repurchase process from the requirements under the LMT provisions.

Feedback:

Overall, respondents agreed with the proposed changes to current Regulation 48 of the Central Bank UCITS Regulations and suggested amendments to distinguish between a "charge relating to redemption or repurchase of units" and a redemption fee as a LMT with explicit reference to the definition of redemption fee set out in Annex IIA of the Amending Directive.

Response:

The Central Bank has amended the definition of "charge relating to redemption or repurchase of units" to ensure that the definition covers a wide range of non-LMT type fees such as distribution fees.

Question 3.3: Current Regulations 51 and 52 – Monthly and quarterly returns

Proposal:

The Central Bank proposed to remove and replace current Regulations 51 and Regulation 52 of the Central Bank UCITS Regulations in respect of monthly and quarterly returns with a new Regulation allowing for future amendments to reporting requirements as set out in the relevant Central Bank's guidance.

Feedback:

Respondents suggested that the changes proposed to these Regulations included additional wording to require industry engagement prior to amending reporting requirements on the Central Bank's website in the future.

Response:

The Central Bank is retaining the language as consulted on.

Part 4 – Prospectus requirements

Question 4.1: Current Regulation 53 – General requirements

Proposal:

The Central Bank proposed to review the wording of the current Regulation 53 of the Central Bank UCITS Regulations in respect of the requirement to ensure that the UCITS complies with the terms of the UCITS prospectus for clarification purposes.

Feedback:

Respondents recommended that the Central Bank reinstate the original wording on the basis that the changes proposed to this Regulation, if retained, would exclude self-managed UCITS from this provision.

Response:

The Central Bank has reinstated the original wording of this Regulation. This ensures that both internally and externally managed UCITS are covered by the requirement imposed on the responsible person to comply with the terms of the UCITS prospectus.

Question 4.2: Current Regulation 54 – Advertising

Proposal:

The Central Bank consulted on a number of changes to take account of the entry into force of Regulation (EU) 1286/2014 on key information documents for packaged retail and insurance-based investment products (the **PRIIPs Regulation**).

Feedback:

The majority of respondents agreed with the changes proposed to current Regulation 54 of the Central Bank UCITS Regulations.

Response:

The Central Bank will proceed with this proposal.

Question 4.3: Current Regulation 60 – Index-tracking funds

Proposal:

The Central Bank proposed to amend current Regulation 60 of the Central Bank UCITS Regulations to incorporate UCITS Q&A ID 1082 on the meaning of the term 'reverse leverage', which refers to short exposure.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal. This amendment will result in the deletion of UCITS Q&A ID 1082.

Question 4.4: Current Regulation 61 – Efficient portfolio management

Proposal:

The Central Bank consulted on removing the reference to the "intentions" of the UCITS in current Regulation 61(1)(a) of the Central Bank UCITS Regulations related to disclosure requirements in the prospectus on efficient portfolio management techniques and instruments which may be used by the UCITS, a term which is unclear and open to interpretation.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 4.5: Current Regulation 62 – Dealing

Proposal:

The Central Bank proposed to amend current Regulation 62 of the Central Bank UCITS Regulations to require disclosure in the UCITS prospectus of both the "maximum charge relating to the redemption or repurchase of units" (i.e. 'one and done' costs incurred for redemptions) and other charges to cover dealing costs and preserve the value of the underlying assets (i.e. an anti-dilution levy, a redemption fee, a swing-pricing factor or an adjustment factor that reflects the cost of liquidity). The Central Bank further proposed to disclose the existing "pro forma" standardised language provided in paragraph (2) of this Regulation for all these other charges.

Feedback:

Respondents suggested that current Regulation 62(2) of the Central Bank UCITS Regulations be removed or, alternatively, that a number of specific elements be considered including that the requirements set out in this provision do not fully take account of the different characteristics of LMTs. Other comments included ensuring alignment of key concepts in respect of LMTs including anti-dilution levy, swing pricing and redemption fee with the Amending Directive and the RTS, and removing the reference to "an adjustment factor that reflects the costs of liquidity". Related to the above, respondents suggested that current Regulation 38 of the Central Bank UCITS Regulations be removed to avoid duplication.

Response:

The Central Bank has removed the requirement to disclose existing "pro forma" standardised language in relation to anti-dilution levies in light of the new European framework on LMTs and new general operational requirements set out in the Central Bank UCITS Regulations requiring disclosure of all selected LMTs in the prospectus of the UCITS.

The Central Bank has also removed current Regulation 38 of the Central Bank UCITS Regulations to ensure there is no overlap with new LMT rules under the transposing legislative instrument.

Question 4.6: Current Regulation 63 – Redemption in specie

Proposal:

The Central Bank consulted on amending current Regulation 63 to ensure that redemption in specie can only be activated to meet redemptions requested by professional investors in line with the Amending Directive (as now transposed into Irish law) and providing for circumstances where a UCITS, if provided for in the prospectus, may exchange securities in order to meet a redemption request, provided that the asset allocation is subject to the approval of the depositary.

Feedback:

Respondents agreed with the changes proposed to this Regulation with suggested amendments to clarify that this provision is not applicable to UCITS ETFs and in-kind redemptions as LMTs.

Response:

The Central Bank agrees with the proposed amendments to this Regulation and has also broadened the term "exchange of securities" to "exchange of assets".

Question 4.7: Current Regulation 67 – Risk disclosures

Proposal:

The Central Bank proposed in respect of risk disclosures to clearly distinguish between an administrative charge relating to the sale and redemption or repurchase of units, and an LMT type redemption fee which is designed to reflect the cost of liquidity.

Feedback:

The majority of respondents agreed with the changes proposed to current Regulation 67 of the Central Bank UCITS Regulations. However, a number highlighted that the proposal may require amendments to the prospectus of funds impacted by this change.

Response:

The Central Bank will proceed with this proposal.

Question 4.8: Current Regulation 71 – Conflicts of interest

Proposal:

The Central Bank proposed to amend the term "connected person(s)" to "connected party(ies)" within current Regulation 71 of the Central Bank UCITS Regulations for clarification purposes.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 4.9: Current Regulation 74 – Performance fees

Proposal:

It was proposed to amend current Regulation 74 of the Central Bank UCITS Regulations to implement Section XI, Question 5 of the ESMA Q&A on the UCITS Directive.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 4.10: New Regulation – Net Asset Value based fees

Proposal:

The Central Bank proposed to impose a new requirement to disclose in the prospectus the maximum fee payable for details of any recurring fees which are calculated based on the NAV of the UCITS and deducted from its assets.

Feedback:

Respondents suggested that the proposed disclosure requirements in relation to NAV-based fees be deleted as they considered them to be unclear and duplicative. In addition, they requested that the possibility to pay fees/expenses payable to the distribution, paying agent or representative agent out of the assets of the UCITS at normal commercial rates be retained.

Response:

The Central Bank has retained the new prospectus disclosure requirements in relation to NAV-based fees, which are deemed to be an important addition to the disclosure framework in order to improve fee transparency for UCITS investors. The Central Bank has identified that certain fees, including research fees calculated on the basis of the NAV of the UCITS and deducted from the fund's assets, were not being clearly disclosed to investors. Minor drafting changes have been made to improve clarity.

The possibility to pay fees/expenses to the distribution, paying agent or representative agent out of the assets of the UCITS at normal commercial rates remains unchanged.

Part 5 – Key investor information document

Question 5: Current Regulations 75 to 78 – Key investor information document

Proposal:

The Central Bank proposed a number of amendments to current Regulations 75 to 78 of the Central Bank UCITS Regulations to take account of the entry into force of the PRIIPs Regulation and related Level 2/3 texts.

Feedback:

Respondents generally agreed with the changes proposed to current Regulations 75 to 78 of the Central Bank UCITS Regulations with suggested amendments to Regulation 75(f) in respect of the application of the ESMA Guidelines on the PRIIPs Regulation to UCITS KIIDs. Respondents noted that the citation of ESMA Guidelines on the application of the PRIIPs Regulation is incorrect and questioned whether the intention was to reference the ESAs Joint Committee Q&As on the application of the PRIIPs KID instead. Stakeholders also requested further detail regarding the rationale for setting out a requirement to comply with rules applicable to PRIIPs KIDs for UCITS KIIDs.

Response:

The Central Bank has removed proposed Regulation 75(f) from the final draft of the Central Bank UCITS Regulations.

Part 6 – General operational requirements

Question 6: Current Regulation 80 – Directed brokerage services or similar arrangements

Proposal:

The Central Bank consulted on drafting changes to current Regulation 80 of the Central Bank UCITS Regulations.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Part 7 – Annual and half-yearly reports of a UCITS

Question 7: Current Regulation 82 – Additional information to be included in the annual report

Proposal:

The Central Bank consulted on drafting changes to current Regulation 82 of the Central Bank UCITS Regulations.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Part 8 – Requirements in respect of specific types of funds

Question 8.1: Current Regulation 84 – Interpretation: Part 8

Proposal:

The Central Bank proposed to remove current Regulation 84 of the Central Bank UCITS Regulations for clarification purposes and to include, as a replacement, new provisions to ensure that a UCITS that is a short term or standard MMF (i) complies at all times with the requirements on stress testing in accordance with Article 28 of the MMFR, and (ii) adheres to the guidelines establishing common reference parameters of the stress test scenarios that are issued and updated periodically by the ESMA.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 8.2: Current Regulation 85 – Exchange-traded funds

Proposal:

The Central Bank consulted on incorporating UCITS Q&A ID 1016 into current Regulation 85 of the Central Bank UCITS Regulations to enable the ETF naming requirement at the share class level. In addition, it was proposed to update paragraphs (2) and (3) of this Regulation to take account of the entry into force of the PRIIPs Regulation.

Feedback:

Respondents generally agreed with the changes proposed to this Regulation subject to a clarification that the UCITS ETF identifier may be used either at the sub-fund or share class level.

Response:

The Central Bank has amended this provision to include further language highlighting the intended carve out for UCITS ETFs permitting the "UCITS ETF" identifier to be included at sub-fund or share class level as appropriate. As a result of these changes, the current Central Bank UCITS Q&A ID 1016 is no longer required and will be deleted.

Question 8.3: Current Regulation 86 – Actively managed UCITS ETFs

Proposal:

The Central Bank proposed to include a reference to the PRIIPs KID to the list of documents where the disclosure requirements set out in this provision shall be met by the responsible person of the UCITS where the actively managed UCITS ETF is required to provide a PRIIPs KID.

Feedback:

The majority of respondents agreed with the changes proposed to current Regulation 86 of the Central Bank UCITS Regulations.

Response:

The Central Bank will proceed with this proposal.

Question 8.4: Current Regulations 88 to 91 – Provisions in respect of money-market UCITS

Proposal:

The Central Bank consulted on removing current Regulations 88 to 91 of the Central Bank UCITS Regulations as they are obsolete.

Feedback:

The majority of respondents agreed with the changes proposed to these Regulations.

Response:

The Central Bank will proceed with this proposal.

Question 8.5: Current Regulation 92 – European Central Bank reporting requirements

Proposal:

The Central Bank proposed to align reporting requirements for MMFs with general reporting requirements for UCITS.

Feedback:

The majority of respondents agreed with the changes proposed to current Regulation 92 of the Central Bank UCITS Regulations, however, some suggested an amendment to provide for a definition of “Monetary Union Member State”.

Response:

The Central Bank has amended the provision to refer to “euro area Member State” instead of “Monetary Union Member State”.

Part 11 – Management companies

Question 9.1: Current Regulation 98 – Operating conditions

Proposal:

The Central Bank consulted on including a new requirement for the UCITS management company to ensure sufficient resources are devoted to manage and monitor the services provided to every UCITS under its management.

Feedback:

Respondents asked for the removal of the requirement in relation to management resources from current Regulation 98 of the Central Bank UCITS Regulations as this is already provided for under the applicable Central Bank UCITS Regulations. Respondents noted that, if retained, this provision could create legal uncertainty as to whether the provision introduces a new standard whereby a UCITS management company must ensure it has "sufficient" in place of "adequate" resources to manage and monitor the services that are provided to every UCITS under its management.

Response:

The Central Bank acknowledges the feedback received and will retain the requirement subject to the UCITS management company having "adequate" resources in place to manage and monitor the services that are provided to every UCITS under its management.

Question 9.2: Current Regulation 100C – Transitioning for existing management companies

Proposal:

The Central Bank proposed to remove the transitioning measures set out in current Regulation 100C of the Central Bank UCITS Regulations, as those provisions are no longer applicable.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 9.3: Current Regulation 104 – Directors

Proposal:

The Central Bank proposed to amend current Regulation 104 of the Central Bank UCITS Regulations to clarify a few provisions, including (i) that the requirement to notify the

Central Bank of the resignation or removal of a director of the management company from the office of director, or other termination of such a director's service as such, as set out in Regulation 104(1), shall be provided in writing; and (ii) that the residency requirements for directors and designated persons of UCITS management companies rated as "low" under PRISM will be retained as a minimum requirement for all management companies with the discretion for the Central Bank to provide at the point of authorisation for additional residency requirements as deemed appropriate.

Feedback:

The majority of respondents broadly agreed with the changes proposed to current Regulation 104 of the Central Bank UCITS Regulations with a number of suggested amendments, in particular:

- replace the term "immediately" with "without undue delay";
- consolidate similar requirements under a single paragraph for improved clarity;
- clarify the meaning of "in writing" for notifications to the Central Bank;
- state explicitly that the requirements are not applicable to fund boards;
- incorporate gender neutral language;
- clarify whether the Central Bank has considered non-EEA jurisdictions "equivalent" to EEA Member States for the purposes of Regulation 104(5).

One respondent noted that, due to the potential for regulatory uncertainty, the reference to the Central Bank's "power to impose additional residency requirements" should be removed or, alternatively, be amended to specify the criteria applicable for such power to be exercised.

Response:

The Central Bank has consolidated paragraphs 1 and 2 of current Regulation 104 of the Central Bank UCITS Regulations and updated the timing element by replacing the term "immediately" with "without delay". The Central Bank confirms that there is no equivalence for non-EEA jurisdictions for the purposes of current Regulation 104(5) of the Central Bank UCITS Regulations.

No amendments have been made to clarify the meaning of the wording "in writing", noting that it can include electronic communications and information in electronic form. The Central Bank does not consider it necessary to clarify the scope of this Regulation which is clearly set out and includes directors and designated persons of UCITS management companies. In respect of inclusive language, the Central Bank acknowledges the benefits of applying inclusive language standards, however, notes that such approach would require consistency throughout the Central Bank UCITS Regulations and related texts. The Central Bank is unable to apply this change for the time being but will add guidance on inclusive language to our internal style guide, which defines standards for all written communications, so that this is addressed more broadly, over time, throughout Central Bank regulations and materials.

The Central Bank has retained minimum residency requirements for directors and designated persons of UCITS management companies. The Central Bank has discretion to impose additional requirements at the point of authorisation based on the nature, scale, and complexity of financial firms. This allows the Central Bank to exercise supervisory judgement and is consistent with its risk-based, proportionate and outcomes-focused approach to supervision.

Question 9.4: Current Regulation 107 – Relationship with the Bank

Proposal:

The Central Bank proposed to clarify the language in relation to the requirement set out in current Regulation 107(2)(e) of the Central Bank UCITS Regulations such that the management company shall notify any situation or event that affects, or potentially affects, a UCITS or a management company's ability to meet their regulatory obligations or duties to the relevant fund.

Feedback:

Respondents recommended that a number of amendments are made in respect of the changes proposed to current Regulation 107 of the Central Bank UCITS Regulations. Specifically, that the notification period to report any situation or event that impacts or potentially impacts the ability of a UCITS management company to meet its regulatory obligations or duties be changed from "immediately" to "promptly" or "without undue delay" upon becoming aware of such situation or event, and that a materiality threshold is applied for breach reporting.

Response:

The Central Bank has reverted to the original provision, which requires the management company to notify the Bank of any situations or events which impact, or potentially impact, to a significant extent on the relevant UCITS or on the management company. The Central Bank has amended the wording "immediately" to use the wording "without delay".

Question 9.5: Current Regulation 112 – Assessment: governance issues

Proposal:

The Central Bank consulted on new requirements relating to the use of powers by the competent authorities of the UCITS home Member State to activate or deactivate the suspension of subscriptions, repurchases and redemptions pursuant to Article 84(2)(b) of the UCITS Directive (as now transposed into Irish law in Regulation 104(2)(b) of the Department of Finance UCITS Regulations).

Feedback:

Respondents generally agreed with the proposed changes to current Regulation 112 of the Central Bank UCITS Regulations subject to amending the notification timeframe from "immediately" to "without delay" to align with the suspension notification requirement in the Amending Directive.

Response:

The Central Bank has amended the provision in relation to the notification timeframe from "immediately" to "without delay".

Question 9.6: Current Regulation 114 – Assessment: depositary issues

Proposal:

The Central Bank proposed amendments to current Regulation 114(1) of the Central Bank UCITS Regulations in respect of agreements between the management company of the UCITS and a depositary located outside the State for clarification purposes.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Part 12 – UCITS depositaries

Question 10.1: Current Regulation 120 – Operating conditions

Proposal:

The Central Bank consulted on removing the term “simultaneously” in current Regulation 120(1) of the Central Bank UCITS Regulations for drafting purposes.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Question 10.2: Current Regulation 122 – Permitted markets

Proposal:

The Central Bank proposed a drafting amendment to current Regulation 122(1)(a) of the Central Bank UCITS Regulations to clarify the language.

Feedback:

Respondents agreed with the change proposed to this Regulation, however, recommended replacing the term "mentioned" with "listed" for clarity.

Response:

The Central Bank has accepted the proposal to use the term "listed" in place of "mentioned".

Part 13 – Miscellaneous provisions

Question 11: Current Regulation 129 – Transitional arrangements

Proposal:

The Central Bank proposed to delete current Regulation 129 of the Central Bank UCITS Regulations, as these provisions are obsolete.

Feedback:

Respondents agreed with the changes proposed to this Regulation with suggested amendments to incorporate a transitional period to allow existing UCITS time to comply with the changes being introduced in line with the Amending Directive.

Response:

The Central Bank notes the comments seeking transitional arrangements for existing UCITS and considers such arrangements are not necessary noting there is no transitional period provided for in the Amending Directive (as now transposed into Irish law).

Question 12: Current Regulation 130 – Disapplication of certain provisions

Proposal:

The Central Bank consulted on removing current Regulation 130 of the Central Bank UCITS Regulations to take account of obsolete provisions and expiration of transitional arrangements referred to in this Regulation.

Feedback:

Respondents requested in respect of the changes proposed to current Regulation 130 of the Central Bank UCITS Regulations that a provision be retained to clarify that Regulations 23 to 25 of the Central Bank UCITS Regulations in relation to efficient portfolio management are not applicable to UCITS MMFs.

Response:

The Central Bank has included a clarification that Regulations 23 to 25 of the Central Bank UCITS Regulations in relation to efficient portfolio management do not apply to UCITS MMFs.

Part 14 – Revocations and saver

Question 13: Current Regulation 131 – Revocations

Proposal:

As a result of the proposed amendments to the Central Bank UCITS Regulations set out in this CP161, the Central Bank proposed to update the list of regulations that will be revoked.

Feedback:

The majority of respondents agreed with the changes proposed to current Regulation 131 of the Central Bank UCITS Regulations.

Response:

The Central Bank will proceed with this proposal.

Schedule 2

Question 14: Current Regulation 17 – Netting and Hedging

Proposal:

The Central Bank proposed changes to current Regulation 17 in Schedule 2 of the Central Bank UCITS Regulations for drafting purposes.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Schedule 3

Question 15: Current Regulation 24(1) – Conditions for Collateral Received by a UCITS

Proposal:

The Central Bank proposed drafting changes to paragraph (4) of current Regulation 24(1) in Schedule 3 of the Central Bank UCITS Regulations to clarify this provision in respect of the conditions for collateral received by a UCITS.

Feedback:

The majority of respondents agreed with the changes proposed to this Regulation.

Response:

The Central Bank will proceed with this proposal.

Schedule 5

Question 16: Current Regulation 36(1) – Methods of Valuation

Proposal:

The Central Bank consulted on removing paragraph (6) of current Regulation 36(1) in Schedule 5 of the Central Bank UCITS Regulations in light of proposed amendments to Regulation 6 of the Central Bank UCITS Regulations.

Feedback:

Respondents noted that the changes proposed to current Regulation 36(1) in Schedule 5 of the Central Bank UCITS Regulations do not take account of the specifics of certain non-MMF UCITS using MMIs. It was further noted that the 10 basis point deviation limit for using the amortised cost method for MMI valuation should be removed and flexibility under the applicable Central Bank UCITS Regulations be retained.

Response:

The Central Bank has considered the above feedback and will not proceed with the proposed changes.

Annex A – CP161 Respondents

The closing date for submissions to CP161 was 5 November 2025.

A total of nine responses were received.

Respondents included two representative bodies – Irish Funds and the Irish Fund Directors Association – and seven endorsement letters to Irish Funds' submission from Arthur Cox LLP, Dillon Eustace LLP, McCann Fitzgerald LLP, SEI Ireland entities (i.e., SEI Investments Global Fund Services Limited, SEI Investments Depositary and Custodial Services (Ireland) Limited, and SEI Investments Global Limited), Simmons & Simmons LLP, Walkers Ireland LLP and William Fry LLP.

All stakeholder submissions received are available on the Central Bank's website[5].

[5] https://www.centralbank.ie/publication/consultation-papers/cp161-consultation-proposed-amendments-to-central-bank-ucits-regulations-and-guidance-on-performance-fees-for-ucits-and-certain-types-of-retail-investor-aifs

Annex B – Central Bank UCITS Regulations and Costs and Benefits Assessment

The updated Central Bank UCITS Regulations are available on the Central Bank's website[6].

Costs and benefits assessment

1. Introduction and legal basis

In accordance with Section 50A(1) of the Central Bank (Supervision and Enforcement) Act 2013 (the **2013 Act**), the Central Bank is required to complete a Regulatory Impact Assessment when proposing updates to regulations made under Section 48.

The following is an assessment of the proposed update to the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities Regulations 2019) (the **Central Bank UCITS Regulations**) necessary to transpose EU Directive 2024/927 (**UCITS VI**) amending Directive 2009/65/EC which entered into force on 15 April 2024.

2. Problem definition

The entry into force of UCITS VI introduces new regulatory requirements for UCITS including:

- amendments to rules in relation to delegation;
- updates to rules in relation to conduct, conflicts of interest and undue costs;
- extension of services that can be provided by management companies;
- new requirements for the selection of liquidity management tools (LMTs);
- updates to reporting requirements; and,
- the introduction of a limited depositary passport.

The proposed update to the Central Bank UCITS Regulations is necessary to support the domestic transposition and implementation of the revised European framework into Irish law.

The Central Bank UCITS Regulations also need to be updated to take account of legal and policy developments including outstanding updates from previous consultations, incorporation of Q&As and the deletion of expired transitional arrangements.

3. Baseline and options

Ireland is legally required to transpose UCITS VI into Irish law. The consequential amendments to the Central Bank UCITS Regulations form an essential part of the

[6] https://www.centralbank.ie/regulation/industry-market-sectors/funds/ucits/legislation

transposition and are essential to ensure the revised Directive is transposed in line with Ireland's obligations as an EU Member State.

4. Assessment of impacts

4.1 Benefits

The principal benefits of the proposed updates to the Central Bank UCITS Regulations are as follows:

- **Alignment:**

The proposed updates ensure alignment of the domestic regulatory framework with the revised European UCITS framework, including by removing legislative barriers currently preventing full compliance with the ESMA Guidelines on performance fees in UCITS and certain types of AIFs (the **ESMA Guidelines on Performance Fees**).

- **Updated and simplified:**

The proposal ensures the domestic framework is up-to date by incorporating outstanding updates from previous consultations.

The proposed updates simplify the domestic framework by incorporating requirements currently set out in Central Bank UCITS Q&As and streamlining other provisions.

- **Improved legal clarity:**

Clarifications throughout the Central Bank UCITS Regulations will reduce legal uncertainty and address provisions that are open to divergent interpretations.

- **Improved proportionality:**

Removal of existing requirements will ensure full alignment with European rules related to liquidity management. As regards performance fees, allowing shorter performance reference periods and more frequent crystallisation under certain conditions (where there are inherent safeguards to protect investors) ensures alignment with the ESMA Guidelines on Performance Fees without reducing regulatory outcomes.

- **Improved transparency for investors:**

Inclusion of a new NAV-based fee prospectus disclosure will enhance investor transparency.

4.2 Costs and risks

- **Alignment with European UCITS framework:**

The costs of the proposed updates to the European framework were considered as part of an impact assessment report made by the European Commission in 2021. The European Commission reported that the proposed UCITS VI updates would not lead to significant additional operating costs for industry participants, and that some of the measures may in fact lead to cost reductions through increased competition and efficiencies. Any additional costs were deemed to be outweighed by the benefits to investor protection and mitigation of risks to financial stability.

- **New Central Bank requirements:**

The introduction by the Central Bank of new domestic disclosure and notification requirements will entail some additional costs for industry participants, however these costs will not be significant and the benefits in terms of improved investor protection and financial stability, outweigh these costs.

- **Updating and simplification:**

The proposed updates to and simplification of the domestic framework may reduce administrative burdens and lower compliance costs for industry participants, without reducing regulatory outcomes.

The Central Bank does not identify any risks to industry participants or the financial system as a result of these proposed measures.

4.3 Impact on customers

The impact on the fund sector and investors is expected to be positive with enhanced disclosures, more effective LMTs and the availability of a wider range of performance fee models.

4.4 Impact on fair competition

The proposal supports fair competition and market integrity by aligning the domestic UCITS regulatory framework with the updated European framework and clarifying certain provisions to reduce legal uncertainty. The removal of obsolete and expired transitional arrangements will reduce compliance costs and increase accessibility.

5. Overall assessment and conclusion

The Central Bank has concluded that the Central Bank UCITS Regulations should be repealed and replaced with necessary updates to support the effective implementation of the revised Directive in Irish law.

Annex C – Central Bank Guidance on performance fees for UCITS and certain types of Retail Investor AIFs

The updated Central Bank Guidance on performance fees of UCITS and certain types of Retail Investor AIFs is available on the Central Bank's website[7].

[7] https://www.centralbank.ie/regulation/industry-market-sectors/funds/ucits/guidance

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