

Central Bank of Ireland Authorisation Process – Increased Scrutiny of Certain Assets

On 29 January 2020, the Central Bank of Ireland (“**Central Bank**”) issued an **updated version** of its UCITS Q&A, which includes a new Q&A ID 1094, in relation to investment by UCITS in contracts for difference (“**CFDs**”), collateralised loan obligations (“**CLOs**”), contingent convertible securities (“**CoCos**”) and binary options.

The Q&A quotes relevant sections of the Irish UCITS Regulations regarding a UCITS’ risk management process and sets out the Central Bank’s approach where a UCITS proposes to invest in CFDs, CLOs, CoCos or binary options. Such a UCITS may be subject to enhanced scrutiny at the authorisation phase, with a view to ensuring that the proposal is appropriate, taking into account the overall portfolio of assets that is proposed for the UCITS. The Central Bank states that, in addition to the required application forms, relevant fund documentation and relevant draft letters, the Central Bank may request such additional information as may be required in the course of reviewing the specific application.

Such enhanced scrutiny may include review of:

- (a) model portfolio information;
- (b) the due diligence carried out in respect of the proposed underlying portfolio;
- (c) stress testing on the relevant portfolio; and
- (d) evidence to support the view that the proposed investment portfolio is suitable taking into account the above-mentioned requirements.

Such information should be sufficiently detailed to enable the Central Bank to make an informed judgement with respect to the particular application involved.

It is clear that the Central Bank intends to take a more engaged approach in future in relation to investment in these assets and other asset classes which they perceive as presenting similar risks and managers will need to factor this into their launch documentation. There is ongoing discussion between Irish Funds and the Central Bank in relation to the Central Bank’s approach to investment in these assets and we will continue to keep our clients and contacts informed as to any further developments.