

Asset Management and Investment Funds

Legal and Regulatory Quarterly Report

Covering the period
1 October 2024 to 31 December 2024



KEY DATES
2024

3 December 2024	Commencement of measures under the Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024.
12 December 2024	Central Bank outsourcing register submission deadline.
16 December 2024	New Central Bank daily investment fund return go-live date.
24 December 2024	Measures under EMIR 3.0 commence to take effect.
31 December 2024	Deadline for PRIIPs KIDs to calculate implicit transaction costs using the arrival price methodology in accordance with the PRIIPs Delegated Regulation.
Q4 2024	Regulated financial service providers ("RFSPs") to ensure compliance with the new annual certification requirement under the Individual Accountability Framework ensuring certification of compliance for each pre-approval-controlled function ("PCF") and controlled function ("CF") role holders for the calendar year 2024.
Q4 2024	RFSPs recommended to provide periodic conduct standards training to all PCF and CF role holders.

2025

1 January 2025	Reporting obligations commence under the Corporate Sustainability Reporting Directive (EU) 2022/2464 ("CSRD") for certain in-scope large companies (with their first annual CSRD-compliant financial reports to be published in 2026).
1 January 2025	Annual PCF confirmation and new CF certification facility via the Central Bank Portal open to submissions from RFSPs.
17 January 2025	Digital Operational Resilience Act ("DORA") to commence application.
31 January 2025	Fund management companies providing MiFID II services to retail clients to complete a review of their marketing and advertising practices.
30 April 2025	Deadline for DORA register submissions to the ESAs, with submissions to the Central Bank due during early April.
21 May 2025	ESMA guidelines on funds' names using ESG or sustainability-related terms apply (for funds in existence on 21 November 2024).
30 June 2025	Fund management companies managing exchange traded funds ("ETFs") to review their frameworks and practices.
31 December 2025	First reporting reference date for a new resident investment funds return for the collection of data under ECB Regulation (EU) 2024/1988 on investment fund statistics.

This is a condensed version of our Asset Management and Investment Funds Legal and Regulatory Report setting out key developments during the quarter.

1.	AIFMD & UCITS DEVELOPMENTS	6
1.1	ESMA consultation paper on regulatory technical standards on open-ended loan originating AIFs under AIFMD II.....	6
1.2	Public consultation on exercise of AIFMD II national discretions (<i>This is a further update to section 1.1 of the quarterly report covering the first quarter of 2024</i>).....	6
1.3	ELTIF Delegated Regulation published in the official journal of the EU (the "OJ") (This is a further update to section 1.1 of the quarterly report covering the third quarter of 2024)	6
2.	CENTRAL BANK UPDATES	7
2.1	PCF and CF annual confirmation and certifications 2025 (update) (<i>This is a further update to section 2.7 of the quarterly report covering the first quarter of 2024</i>).....	7
2.2	Authorisation processes updated for open-ended ELTIFs with limited liquidity (<i>This is a further update to section 2.2(a) of the quarterly report covering the first quarter of 2024 and section 1.3 of this report</i>)	7
2.3	Investment funds supervision bulletin	8
2.4	Financial stability review 2/2024 (<i>This is a further update to section 3.10 of the quarterly report covering the second quarter of 2024 and section 2.9(a) of this report</i>)	8
2.5	Industry letter on the primary and secondary market trading arrangements of ETFs in Ireland	9
2.6	Daily investment funds return	10
2.7	Dear CEO letter on MiFID II (2014/65/EU) marketing communications to retail clients (<i>This is a further update to section 4.3(m) of the quarterly report covering the second quarter of 2024</i>).....	10
2.8	Cross-sectoral guidance on authorisation expectations (<i>This is a further update to section 3.2 of the quarterly report covering the second quarter of 2024</i>).....	10
2.9	Markets updates during the period	11
	(a) Issue 13 of 2024 (<i>This is a further update to sections 3.3(c) of this report</i>) ..	11
	(b) Issue 12 of 2024 (<i>This is a further update to section 2.5 of this report</i>)	11
	(c) Issue 11 of 2024 (<i>This is a further update to section 3.2(a) of this report</i>)	11
	(d) Issue 10 of 2024 (<i>This is a further update to section 2.11(g) of this report</i>)..	12
2.10	Questions and answers ("Q&A") on Individual Accountability Framework ("IAF") conduct standards (updated) (<i>This is a further update to section 2.8 of the quarterly report covering the third quarter of 2024</i>)	12
2.11	Central Bank speeches during the period.....	13
	(a) Annual Irish Funds ("IF") symposium.....	13
	(b) Governor's opening remarks at the Central Bank annual financial system conference	13
	(c) Ireland's role as a growing financial centre in Europe	14
	(d) Progress, not regress: Financial regulation in challenging times.	14
	(e) Foundations for the future - technology as a source of good in the financial system.....	14
	(f) DORA industry briefing	15
	(g) Past, present and future of ETFs (<i>This is a further update to section 2.9(d) of this report</i>)	15
	(h) Unity creates strength	16
	(i) Governing for the good – doing the right thing	17
	(j) Regulating for better outcomes.....	17
2.12	Industry Funding Regulations 2024	18
2.13	Funding strategy and guide to the 2024 Industry Funding Regulations.	18
2.14	ORION guidance (updated)	18
2.15	F&P performance report	18
2.16	Research paper on first mover advantage in funds	19
2.17	Investment fund statistics Q3 2024.....	19

3.	OTHER LEGAL AND REGULATORY DEVELOPMENTS	19
3.1	Department of Finance	19
	(a) Finance Act 2024 (No. 43 of 2024) (the " Act ") (This is a further update to section 3.2(a) of the quarterly report covering the third quarter of 2024)	19
	(b) Fund Sector Review 2030 (This is a further update to section 2.1 of the quarterly report covering the first quarter of 2024)	20
3.2	EMIR Regulation (648/2012) (" EMIR ")	21
	(a) EMIR 3.0 and related amending Directive published in OJ (This is a further update to section 3.2(b) of the quarterly report covering the first quarter of 2024)	21
	(b) ESMA consultation on active account requirements (" AAR ") of EMIR 3.0	22
3.3	European Commission (the " Commission ")	23
	(a) Commission President speech on the next EU legislative cycle	23
	(b) Publication of EU Listing Act package	23
	(c) Responses to the Commission consultation on the review of the EU macro-prudential policy framework for non-bank financial intermediation (" NBFI ") (This is a further update to section 2.9(a) of this report and section 4.1(a) of the report covering the second quarter of 2024)	23
	(d) Commission consultation on securitisation framework	24
3.4	Council of the EU	24
	(a) Budapest Declaration on competitiveness	24
	(b) Provisional agreement on regulation amending the Benchmark Regulation ((EU) 2016/1011)	25
3.5	Enactment of Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (44 of 2024) (the " Act ") (This is a further update to section 3.4(b) of the quarterly report covering the third quarter of 2024)	26
3.6	ESMA & ESAs	26
	(a) ESMA data collection on costs linked to investments in AIFs and UCITS	26
	(b) ESMA and ESA joint committee work programmes 2025	27
	(c) ESAs letter to the Commission on the retail investment strategy (" RIS ") (This is a further update to section 4.2(d) of the quarterly report covering the second quarter of 2024)	28
	(d) Report on move to T+1 settlement cycle in the EU (This is a further update to section 3.5(r) of the quarterly report covering the third quarter of 2024)	29
	(e) ESMA remarks on supervisory priorities for asset management	29
	(f) Final ESA report on joint guidelines on the system for the exchange of information relevant to fit and proper assessments	30
	(g) ESAs public statement on DORA application	30
	(h) ESAs' decision on timeline for information authorities must report for designation of critical ICT third-party service providers under DORA	30
	(i) Implementing technical standards (" ITS ") on standard template for register of information under DORA	31
	(j) Final report on technical advice on penalty mechanism under CSDR (This is a further update to section 4.2(b) of the quarterly report covering the fourth quarter of 2023)	31
	(k) ESMA report on NCA sanctions	31
	(l) ESMA remarks	32
	(m) ESMA newsletters – spotlight on markets	32
	(n) ESMA consultation on MiFID II research provisions	32
	(o) Final package of ESMA policy documents under MiCA	32
	(p) ESMA Q&A on MiCA	33
	(q) ESMA opinion on draft MiCA RTS on authorisations and notifications	33
	(r) Common enforcement priorities for corporate reporting	33
3.7	Financial Stability Board (" FSB ")	33
	(a) Annual report on promoting global financial stability	33
	(b) Report on financial stability implications of AI	34
	(c) Consultation on leverage in NBFI	34
	(d) Final report on enhancing liquidity preparedness for margin and collateral calls (This is a further update to section 4.6(a) of the quarterly report covering the second quarter of 2024)	35

3.8	International Organisation of Securities Commissions (" IOSCO ") (This is a further update to section 4.7(b) of the quarterly report covering the fourth quarter of 2023).	36
3.9	Screening of Third Country Transactions Act 2023 (the " Act ") commencement order (This is a further update to section 4.8 of the report covering the fourth quarter of 2023)	36
4.	SUSTAINABLE FINANCE	36
(a)	ESMA Q&A on the application of ESMA's guidelines on funds' names using ESG or sustainability-related terms (the " Guidelines ") (This is a further update to section 4(a) of the quarterly report covering the third quarter of 2024)	36
(b)	Central Bank notice of intention on guidelines on the Guidelines (This is a further update to section 4(a) of the quarterly report covering the third quarter of 2024)	37
(c)	ESG Rating Regulation (This is a further update to section 3.11(f) of the quarterly report covering the first quarter of 2024)	37
(d)	Platform on Sustainable Finance: Report on Categorisation of products under SFDR	37
(e)	Commission frequently asked questions (" FAQs ") on the implementation of the EU taxonomy for sustainable economic activities	38
(f)	Central Bank's SFDR follow-up workshop (This is a further update to section 3.18(d) of the quarterly report covering the fourth quarter of 2023)	38
(g)	EU (Corporate Sustainability Reporting) Regulations 2024 (S.I. No. 336/2024) Update (This is a further update to section 4(e) of the quarterly report covering the third quarter of 2024)	39
(h)	Commission notices concerning sustainability reporting published in the OJ (This is a further update to section 4(b) of the quarterly report covering the third quarter of 2024)	39
(i)	Platform report on investing for transition benchmarks (" ITB ")	40
(j)	ESAs climate scenario analysis	40
(k)	ESAs 2024 joint report on principal adverse impacts (" PAI ") disclosures under SFDR (This is a further update to section 4.11(a) of the quarterly report covering the final quarter of 2023)	40
(l)	ESMA sustainable finance implementation timeline	41
(m)	ESMA risk analysis article: "Assessing portfolio exposures to climate physical risks"	41
(n)	ESMA reports on carbon markets	41
(o)	Taskforce on Nature-related Financial Disclosures (" TNFD ") draft guidance on nature transition planning (This is a further update to section 4(k) of the quarterly report covering the third quarter of 2024)	41
(p)	IOSCO final report on good practices in voluntary carbon markets	42
(q)	IOSCO report on transition plans disclosures	42
(r)	ESA report on implementing technical standards (ITS) regarding certain tasks of the collection bodies and functionalities of the European Single Access Point (" ESAP ") (This is a further update to section 3.1(a) of the quarterly report covering the third quarter of 2024)	42

Quarter Highlights

In this quarterly edition of the Walkers legal and regulatory report, we identify a number of key highlights during a busy period for Irish and European legal and regulatory bodies as follows:

As regulatory outputs continue apace ahead of the implementation of Directive (EU) 2024/927 ("AIFMD II"), the **Department of Finance ("DoF")** launched its public consultation on the exercise of the AIFMD II national discretions (**section 1.2**). **ESMA** launched its public consultation outlining proposed delegated measures for **loan originating AIFs** to comply with in order to maintain an open-ended liquidity profile (**section 1.1**).

In a significant legislative milestone, the **European Commission** (the "**Commission**") Delegated Regulation (EU) 2024/2759 on regulatory technical standards supplementing the European Long-Term Investment Funds ("ELTIF") Regulation ((EU) 2015/760) as amended, was published and became effective (**section 1.3**). Following the coming into force of the ELTIF regulatory technical standards, the **Central Bank of Ireland** (the "**Central Bank**") updated its ELTIF **authorisation** processes to facilitate the authorisation of open-ended ELTIFs with limited liquidity (**section 2.2**).

The Department of Finance published the report on the **Fund Sector Review 2030** outlining significant opportunities to enhance the investment landscape in Ireland's funds sector (**section 3.1(b)**).

The **Central Bank** published its inaugural investment funds **supervision bulletin** highlighting key areas of its thematic supervisory and authorisations focus (**section 2.3**), as well as an industry letter following its thematic review of Irish authorised ETFs (**section 2.5**).

The **Central Bank** published its 'Dear CEO' letter on **marketing communications to retail clients** following ESMA's report earlier this year. The Dear CEO letter communicates the Central Bank's findings and supervisory expectations from a thematic review on the application of MiFID II marketing and advertising requirements, requiring in-scope firms providing service to retail clients to take action to review their practices in accordance with the letter by 31 January 2025 (**section 2.7**).

The **Central Bank** also delivered significant speeches during the period:

- addressing the evolution of the **ETF sector** and changes to **ETF naming requirements** (**section 2.11(g)**), the growth of **private assets**, its new supervisory approach and its increasing use of **data and technology** (**section 2.11(a)**);
- outlining some key attributes of **good board governance** and its expectations of good **organisational culture** (**section 2.11(ii)**);
- preparations for upcoming **DORA implementation** (**section 2.11(f)**); and
- the macro-outlook for **financial regulation** (**section 2.11(b) - 2.11(d)**).

ESMA launched a data collection exercise on **costs and fees** in UCITS and AIFs (**section 3.6(a)**) and also confirmed its recommendation to the Commission to move to a **T+1 settlement** cycle in the EU in October 2027 (**section 3.6(d)**).

Following the confirmation of the new EU Commissioners, the **Commission** President's speech gives an indication of the likely Commission's financial services priorities for the next legislative term of competitiveness considerations, regulatory simplification measures and constructing an **EU Savings and Investment Union** (**section 3.3(a)**).

Finally, during December 2024 **EMIR 3.0** came into force (**section 3.2**), the EU co-legislators reached agreement on reform of the **Benchmark Regulation** (**section 3.4(b)**) and **ESMA** issued welcome guidance on the interpretation of aspects of its **fund naming guidelines** (**section 4(a)**).

1. AIFMD & UCITS DEVELOPMENTS

1.1 ESMA consultation paper on regulatory technical standards on open-ended loan originating AIFs under AIFMD II

On 12 December 2024, ESMA published a [consultation paper](#) outlining draft regulatory technical standards ("RTS") on open-ended loan originating Alternative Investment Funds ("AIFs") under Directive (EU) 2024/927 ("AIFMD II").

AIFMD II introduces harmonised rules on loan originating funds that such AIFs shall be closed-ended unless their manager can demonstrate to its home national competent authority ("NCA") that their liquidity risk management system is compatible with their investment strategy and redemption policy.

The consultation seeks feedback on the draft RTS that set out the requirements with which loan-originating AIFs shall comply in order to maintain an open-ended structure. The draft RTS seek to provide a common implementing framework for Alternative Investment Fund Managers ("AIFMs") and NCAs by determining the elements and factors that AIFMs need to consider when demonstrating to their NCAs that the loan originating AIFs they manage can be open-ended.

ESMA seeks responses to the consultation by 12 March 2025 and intends to finalise the draft RTS by Q3/Q4 2025.

Walkers' Asset Management & Investment Funds group has published an [advisory](#) which highlights the key features of ESMA's proposals and their implications for asset managers and funds' pursuing loan origination strategies.

1.2 Public consultation on exercise of AIFMD II national discretions (*This is a further update to section 1.1 of the quarterly report covering the first quarter of 2024*)

On 22 November 2024, the DoF launched its [public consultation](#) on the exercise of the national discretions in AIFMD II.

The consultation notes that, while the majority of the provisions in AIFMD II will be transposed on a fully harmonised basis, there are a number of national discretions where each member state has discretion on the application of the provision in question. The DoF invites interested parties to make submissions in relation to the exercise of the following national discretions in AIFMD II, which will be taken into consideration by the DoF when deciding how best to transpose AIFMD II into Irish law:

- extending the list of ancillary activities and services that may be provided by fund management companies ("FMCs") (*to include the tasks carried out by an administrator in accordance with Regulation (EU) 2016/1011 (the "Benchmark Regulation") and in respect of AIFMs only, credit servicing activities in accordance with Directive (EU) 2021/2167 (the "Credit Servicing Directive")*);
- prohibiting AIFs that originate loans from granting loans to consumers in Ireland; and
- permitting the NCA (the Central Bank) to allow the appointment of a depositary established in another member state, on receipt of a reasoned request from an AIFM and subject to strict conditions.

The DoF notes that it also welcomes views in relation to other elements of the transposition. The consultation period will run until 17 January 2025.

Walkers' Asset Management & Investment Funds group have published an [advisory](#) which highlights the key aspects of this consultation.

1.3 ELTIF Delegated Regulation published in the official journal of the EU (the "OJ") (This is a further update to section 1.1 of the quarterly report covering the third quarter of 2024)

On 25 October 2024, Commission Delegated Regulation (EU) [2024/2759](#) (the "ELTIF Delegated Regulation") supplementing Regulation (EU) 2015/760 with regard to the European Long-term Investment Fund ("ELTIF") regulatory technical standards ("RTS") was published in the OJ.

The RTS specify when derivatives will be used solely for hedging the risks inherent to other investments of the ELTIF, the requirements for an ELTIF's redemption policy and liquidity management tool, the circumstances for the matching of transfer requests of units or shares of the ELTIF, certain criteria for the disposal of ELTIF assets, and certain elements of the costs disclosure.

The ELTIF Delegated Regulation entered into force on 26 October 2024 and is binding in its entirety and directly applicable in all member states.

2. CENTRAL BANK UPDATES

2.1 PCF and CF annual confirmation and certifications 2025 (update) *(This is a further update to section 2.7 of the quarterly report covering the first quarter of 2024)*

During December, the Central Bank [published](#) on its fitness and probity ("F&P") webpage updated pre-approval controlled function ("PCF") annual confirmation and controlled function ("CF") certification [Guidance](#) (the "Guidance") for 2024.

The Guidance outlines the process for the first submission in 2025 of the additional certification regarding compliance with F&P standards (relating to the 2024 calendar year), introduced under the Certification Regulations (S.I. No. 2 of 2024). The Guidance has been updated to include the steps for the annual CF certification submission in respect of CF holders at year end 2024. The additional certification process will be similar to the current PCF Annual Confirmation process. The Guidance includes confirmation that no document upload is required to complete the annual CF certification and firms are not required to submit to the Central Bank the register comprising individuals performing CF roles unless requested to do so.

Both the PCF annual confirmation and CF annual certification facility will be open on the online portal (the "Portal") from 1 January 2025. The submission windows will align with the previous annual confirmations.

2.2 Authorisation processes updated for open-ended ELTIFs with limited liquidity *(This is a further update to section 2.2(a) of the quarterly report covering the first quarter of 2024 and section 1.3 of this report)*

On 25 October 2024, following the coming into force of the Commission's Delegated Regulation supplementing the ELTIF Regulation, the Central Bank updated its [authorisation processes](#) for AIFs and the [ELTIF application form](#). The update was published to facilitate the authorisation of open-ended ELTIFs with limited liquidity in accordance with Article 18 of the ELTIF Regulation.

The update provides that a pre-submission, made prior to the filing of the application for authorisation, is now required for the establishment of Qualifying Investor or Professional Investor open-ended with limited liquidity ELTIFs (whether umbrella/standalone/sub-fund) i.e. which propose to provide for the possibility of redemptions during the life of the ELTIF.

The pre-submission must contain at least the following detail:

- A narrative explanation of the results of the liquidity stress testing carried out in accordance with Article 15(3), point (b), and Article 16(1), second subparagraph of Directive 2011/61/EU (AIFMD), demonstrating whether and how, in severe but plausible scenarios, the ELTIF is able to deal with redemption requests;
- Where redemptions are proposed to take place more frequently than quarterly, justification by way of confirmation of the appropriateness of the redemption frequency and its compatibility with the individual features of the ELTIF.
- Where the notice period of the ELTIF is proposed to be less than 3 months, the reasons for the shorter notice period, and an explanation as to how that shorter notice period is consistent with the individual features of the ELTIF.

Pre-submissions should be sent to fundsauthorisation@centralbank.ie and clearly marked as a "Pre-submission for an ELTIF". Pre-submissions must be made in good time to allow these to be considered by the Central Bank in advance of for the desired authorisation date.

The updated ELTIF application form provides for updated requirements in accordance with the RTS, including without limitation and as applicable to the characteristics of the individual ELTIF:

- detail on the use of financial derivative instruments;
- redemption policy detail, including:
 - where the ELTIF provides for the possibility of redemptions during the life of the ELTIF the AIFM is required to submit a narrative explanation of the results of liquidity stress testing as well as a letter addressing the information required by Article 4(1) of the ELTIF Delegated Regulation; and
 - where the ELTIF provides for the possibility of redemptions more frequently than quarterly or notice periods shorter than three months, the AIFM is required to submit an explanation as to how the redemption frequency is compatible with the individual features of the ELTIF; and
- details of any secondary market transfer matching mechanism.

The updates were also incorporated in Central Bank markets update (issue 10 of 2024).

2.3 Investment funds supervision bulletin

On 16 December 2024, the Central Bank published its inaugural [Investment Funds Supervision Bulletin 2024](#) (the "**Bulletin**").

The Bulletin, which was the first in a new series, highlights current and future areas of Central Bank supervisory and authorisation focus, including a range of recent thematic and sectoral work. The Bulletin recapped findings from its targeted reviews of fixed operating expense models and fees paid to funds' investment advisers. It also looks ahead to planned thematic reviews throughout 2025, noting in particular as follows:

- targeted questionnaire to a sample of FMCs and thereafter communication to industry on its review of liquidity management tools ("**LMTs**");
- communication of its findings and actions to industry following the securities lending review; and
- the Central Bank will also share an industry communication following ESMA's publication of the findings from its common supervisory action ("**CSA**") report on sustainability risks and disclosures in Q2 2025.

There will likely be further thematic reviews launched during 2025. Other areas of Central Bank focus for 2025 include a review focusing on hedge funds and the recently issued ESMA costs and fees survey. The Central Bank intends to continue to engage with the funds industry to manage the timelines and expectations relating to this work.

From a fund authorisation perspective, the Bulletin notes the Central Bank will continue to perform assessments of the authorisation and post authorisation processes regarding retail investment funds. An area of focus will be Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector ("**SFDR**"), in particular, ESMA's guidelines on funds names using ESG or sustainability-related terms. Quality assurance reviews will also continue to be carried out post authorisation on a sample of qualifying investor AIFs and all qualifying investor and professional investor ELTIFs.

The Central Bank encourages firms to consider the contents of its Bulletin, and the actions they should take to address any identified risks.

2.4 Financial stability review 2/2024 *(This is a further update to section 3.10 of the quarterly report covering the second quarter of 2024 and section 2.9(a) of this report)*

On 4 December 2024, the Central Bank published its second [Financial Stability Review of 2024](#) (the "**Review**") and its accompanying [press release](#) entitled "*Economy remains resilient, but Ireland's small*

open economy is exposed to heightened geopolitical risks" alongside the Governor's [opening remarks](#) at the announcement.

As with previous iterations of the Review, this version contains sections of interest for investment funds and their service providers relating to:

- *Resilience*, whereby the Central Bank cautions that high levels of leverage in parts of the bank and non-bank sector, as well as the growing level of interconnectedness between non-banks and global lenders, could lead to an amplification of market adjustments as a result of shocks.
- *On macro-prudential policy*, the Central Bank will focus on evaluating the implementation on its two macroprudential measures relating to cohorts of investment funds (Irish property funds and GBP LDI funds). The Review also reflects on its recent feedback statement to the discussion paper on an approach to macroprudential policy for investment funds.

Regarding the phased implementation of macroprudential limits on leverage of 60% for Irish property funds (effective by November 2027 for pre-existing Irish property funds), the Review notes while Irish property funds are taking action to reduce leverage mainly through adjustments to their liability mix, the current deteriorating commercial real estate ("**CRE**") market has partially offset these movements. Accordingly, leverage increased marginally across Irish property funds between 2022 and 2023, increasing the overall leverage of the sector by 1.2% mainly driven by asset revaluations. However, the increase in leverage over the period was somewhat offset by net inflows and the conversion of shareholder loans into equity. These actions made the funds' balance sheets more resilient to the falls in CRE prices that occurred over 2023. Nonetheless, it is noteworthy that around a third of both residential and non-residential property funds' AUM is still attributed to funds with leverage above 60%.

2.5 Industry letter on the primary and secondary market trading arrangements of ETFs in Ireland

On 28 November 2024, the Central Bank published an [industry letter](#) entitled '*An examination of the primary and secondary market trading arrangements of ETFs in Ireland*' (the "**Letter**") following its thematic review of Irish authorised ETFs (the "**Review**"). The Letter identified a number of areas where improvements are required and sets out the Central Bank's expectations and actions to be taken by fund management companies ("**Firms**") in respect of their governance practices in relation to authorised participants ("**APs**") and contracted market makers ("**CMMs**"). The key findings focused on the following aspects:

- inadequate due diligence and limited ongoing monitoring of APs and CMMs;
- lack of board oversight; and
- undue AP and CMM concentration.

The Letter sets out a non-exhaustive list of areas to be considered in respect of AP/CMM due diligence and ongoing monitoring as follows:

- financial health and financial performance;
- ownership structure;
- reputation and regulatory history;
- operational structure and capabilities (including trading, clearing and settlement capabilities, pricing, and inventory management);
- arbitrage mechanism and liquidity provision, in normal and stressed circumstances; and
- ensuring receipt of reporting to assess activity.

The letter also endorses a number of measures in the [Good Practices Relating to the Implementation of the IOSCO Principles for Exchange Traded Funds](#) (May 2023) and notes the IOSCO report represents a good framework for the governance practices of Firms.

To address the findings of the Review, the Central Bank requires that Firms consider the actions outlined and, where appropriate, incorporate the necessary changes to their frameworks and practices by the end of **Q2 2025**.

2.6 Daily investment funds return

During the period, the Central Bank communicated draft details to industry on the new daily investment funds return ("**DIFR**").

The DIFR has been introduced under the Central Bank Act, 2013 to enhance data-driven supervision, crisis management, research and analysis capabilities within the Central Bank. In particular, the data compiled is intended to enhance supervisory warning systems, to follow the risk and enable more targeted supervisory queries.

The DIFR applies to every Irish authorised, non-money market investment fund with shares/units/interests in issue and with a non-zero net asset value ("**NAV**"). The first phase of reporting captures dealing day data, including subscriptions, redemptions, NAVs, shares/units/interests in issue and funds liquidating.

Following a period of industry testing beginning in October 2024, the phase 1 implementation of DIFR reporting via the Portal commenced in mid-December 2024.

2.7 Dear CEO letter on MiFID II (2014/65/EU) marketing communications to retail clients *(This is a further update to section 4.3(m) of the quarterly report covering the second quarter of 2024)*

On 10 October 2024, the Central Bank published its [Dear CEO Letter](#) on the findings from a thematic review on the application of MiFID II marketing and advertising requirements (the "**Letter**"). The Letter is addressed to Irish authorised MiFID investment firms, credit institutions and fund management companies providing MiFID services to retail clients (each a "**Firm**"). The Letter is to be read in conjunction with ESMA's [report](#) earlier in 2024 on the findings of its CSA on marketing disclosure rules under MiFID II (the "**ESMA Report**").

A schedule to the Letter details the Central Bank's key findings and supervisory expectations of Firms as well as examples of good practices observed. The findings demonstrate the need for Firms marketing to retail clients to enhance their marketing and advertising practices to ensure they are fair, clear and not misleading and in compliance with standards under the MiFID Regulations.

The schedule to the Letter, includes the following expectations:

- ensuring that all marketing communications and advertisements are:
 - clearly identifiable as such,
 - are fair, clear and not misleading,
 - are presented in a way that is likely to be understood by a retail investor, and
 - are appropriate in terms of content and distribution channel for the target audience;
- reviewing governance controls and outsourcing arrangement in light of regulatory guidance and rules; and
- all regulated investment firms are expected to review their marketing and advertising arrangements and practices to ensure that they are meeting the highest standards of investor protection and delivering fair outcomes that seek to secure their clients' interests.

Firms are required to review their practices against the ESMA Report and the schedule to the Letter and include details of actions taken to address the findings in the ESMA Report and the Letter. This review should be completed and an action plan discussed and approved by the board of each Firm by **31 January 2025**, with the minutes of the relevant board meeting reflecting the discussions and approval of the board.

2.8 Cross-sectoral guidance on authorisation expectations *(This is a further update to section 3.2 of the quarterly report covering the second quarter of 2024)*

In November 2024, the Central Bank published [cross-sectoral guidance](#) outlining its expectations for applicants seeking authorisation (the "**Authorisation Guidance**").

The Authorisation Guidance expands on existing sectoral guidance and provides further detail on how the Central Bank discharges its authorisation mandate. The Authorisation Guidance seeks to increase the transparency of the authorisation process for firms seeking to be authorised and regulated by the Central Bank and to support firms in understanding its high-level requirements and expectations of applicants, in turn driving better quality applications. The Authorisation Guidance is addressed to natural and legal persons applying for initial authorisation and applying or notifying the Central Bank of changes such as business expansions.

The Authorisation Guidance outlines key principles of the application process as well as setting out a non-exhaustive list of expectations applicable to applicant firms of all sectors. The expectations describe common areas of substantive focus as the starting point for all applicant firms.

2.9 Markets updates during the period

(a) *Issue 13 of 2024 (This is a further update to sections 3.3(c) of this report)*

On 13 December 2024, the Central Bank published its [markets update](#) (issue 13) containing the following sole update, which is addressed under section 3.3(c) of this report:

- [Response to the European Commission's targeted consultation assessing the adequacy of macroprudential policies for NBFIs.](#)

(b) *Issue 12 of 2024 (This is a further update to section 2.5 of this report)*

On 29 November 2024, the Central Bank published its [markets update](#) (issue 12) which contained the following key updates:

- [The Central Bank publishes an industry letter in relation to a thematic review examining the primary and secondary market trading arrangements of Exchange Traded Funds \(ETFs\) in Ireland.](#)
- [EC Consultation for Commission Guidelines on the application of the definition of an AI system and the prohibited AI practices established in the AI act](#)

The European AI Office within the Commission launched a consultation on the application of the definition of an AI system and the prohibited AI practices established in the EU AI Act.

The deadline for submissions was 11 December 2024.

- [ESMA publishes consultation paper on Active Account Requirements](#) (as outlined at section 3.2(b) of the report).

The remaining updates of relevance are addressed elsewhere in the report.

(c) *Issue 11 of 2024 (This is a further update to section 3.2(a) of this report)*

On 20 November 2024, the Central Bank published [markets update](#) (issue 11), containing the following [industry communication](#):

- [The EBA asks for input from UCITS and AIFs falling within the scope of initial margin model authorisation under the revised European Market Infrastructure Regulation](#)

The European Banking Authority ("**EBA**"), in cooperation with ESMA and European Insurance and Occupational Pensions Authority ("**EIOPA**"), launched a [short survey](#) aimed at collecting, ahead of EMIR 3.0 (outlined at section 3.2 of the report), information on UCITS and AIFs in scope of initial margin ("**IM**") model authorisation in the EU.

The letter notes that while participation in the survey is not mandatory, *it is strongly encouraged*, noting this represents a key opportunity for entities falling within the scope of IM model authorisation to raise with the European Supervisory Authorities ("**ESAs**") potential issues linked to their specific situation that should be taken into account as part of the development of upcoming regulatory products. UCITS and AIFs expected to fill in the survey are those funds which are currently subject to the requirement to exchange initial margin (with aggregate average notional amount exceeding 8 bn EUR) and using at least one IM model to comply with that requirement.

The deadline for submitting responses to the survey was 29 November 2024.

(d) *Issue 10 of 2024 (This is a further update to section 2.12(g) of this report)*

On 1 November 2024, the Central Bank published [markets update](#) (issue 10) which contained the following key updates:

- [Updates to Streamlined Filing Process for UCITS and AIFs following publication of ESMA's guidelines on funds' names using ESG or sustainability-related terms](#) (the "**Guidelines**")

The Central Bank updated its streamlined filing process for Guidelines. The changes in scope of the process, will allow funds in addition to changes to fund names, to incorporate minor updates to disclosures (in the prospectus, supplements and SFDR annexes) made solely for the purpose of bringing the fund into compliance with the Guidelines' requirements. Any such minor changes to disclosures should not represent a material change to either of the investment objective, investment policy, strategy or risk profile of the fund.

For such minor changes to SFDR-related disclosures, which may also include a change to a fund's name, the Board of the fund as well as the legal advisor to the fund, shall additionally attest that:

- the amendments made do not represent a material change to either of the investment objective, investment policy, strategy or risk profile of the fund; and
- the amendments have been made solely to bring the fund into compliance with the Guidelines.

- [Central Bank publishes 41st Edition of the UCITS Q&A](#)

On 1 November 2024, the Central Bank published the [41st Edition](#) of the UCITS Q&A. The 41st Edition revises Q&A IDs 1012, 1016, and 1088. The updated Q&As incorporate changes reflecting the permitted use of the "UCITS ETF" identifier at both the level of the sub-fund or listed share class.

- [Establishment of ELTIFs which are open-ended with limited liquidity: requirements](#)

This update covers the recent updates (*outlined at section 2.2 of the report*) to the ELTIF application form and Central Bank authorisation process in respect of a Professional Investor ELTIF or a Qualified Investor ELTIF which are open-ended with limited liquidity.

- [Joint Statement by ESMA, the European and ECB on Shortening the standard securities settlement cycle in the European Union: next steps](#)

2.10 Questions and answers ("**Q&A**") on Individual Accountability Framework ("**IAF**") conduct standards (updated) (*This is a further update to section 2.8 of the quarterly report covering the third quarter of 2024*)

On 27 November 2024, the Central Bank published new Q&As in an updated version of its IAF [Questions from Stakeholders](#) document.

The newly issued Q&As relate to the reporting of suspected breaches of the conduct standards (either via the relevant supervisory contact or alternatively by way of a protected disclosure).

On the question of timing of reporting suspected breaches, Q&A 1.6 notes that the nature of, and circumstances underpinning, suspected breaches of the conduct standards will vary and therefore the timing of submission of related reports will be dependent on the facts of each case.

2.11 Central Bank speeches during the period

(a) *Annual Irish Funds ("IF") symposium*

On 21 November 2024, the Central Bank published [remarks](#) by the Central Bank's Director of Securities and Markets Supervision, Patricia Dunne. Key takeaways from the speech are as follows:

On the evolution of the ETF sector, Ms Dunne noted the concerns around particular requirements in place relating to portfolio transparency for ETFs domiciled in Ireland which mandate the publication of daily portfolio holdings she confirmed that the Central Bank remains open to engaging with industry on this. Ms Dunne also noted the recent thematic review showing improvements are required in terms of fund management company oversight of the ETF eco-system including the areas of due diligence, risk monitoring and stress testing performed by Fund Management Companies and the quality of board reporting.

On the growth of more complex products, Ms Dunne referenced ELTIF 2.0, private equity strategies, Depositories of Assets other than Financial Instruments and ongoing work at the Central Bank with the DoF to implement AIFMD II. Ms Dunne outlined how the Central Bank is working alongside the DoF in order to update the current domestic regulatory framework to support the transposition of AIFMD II, including assessing the knock-on impacts on the Central Bank's [AIF Rulebook](#) and the [Central Bank UCITS Regulations](#).

On the changes the Central Bank has made to its supervisory approach for the sector, Ms Dunne notes the changes in sectoral supervision with more frequent targeted supervisory engagement seen, both at the firm and product level. The speech referenced the development of the new comprehensive daily investment fund return, which will give the Central Bank sight of all investor subscription and redemption activity and AUM changes on a trade date basis. Ms Dunne also alluded to the next phase of its 'data building strategy' covering liquidity management tools. She noted the Central Bank is working to enhance its authorisation process through introducing more automation and improved workflow processes.

(b) *Governor's opening remarks at the Central Bank annual financial system conference*

On 18 November 2024, the Central Bank Governor Gabriel Makhoulouf delivered the [opening remarks](#) of the Central Bank's third [annual FS conference](#) on the theme of 'Delivering a well-functioning financial system to support a changing economy'. The following are the key takeaways from the speech:

The Central Bank's new [supervisory framework](#) will deliver more coordinated messaging and more streamlined demands across the full span of its regulatory and supervisory mandate. The Governor noted that changes to the framework are planned to come into effect in January 2025.

On the future direction of European regulation following the Draghi & Letta reports and the Budapest Declaration in light of the increasing risk outlook from geopolitical and economic fragmentation, the Governor noted the challenge will be to balance considerations of single rulebooks, level playing fields and international openness and growing European competitiveness. In this regard, Governor Makhoulouf noted that long-term productivity and competitiveness demands a sustainable long-term policy.

On the future role of regulation, in particular on contribution to building bigger capital markets in Europe to help finance the economic transitions, the Governor opined that Europe shouldn't take the option of thinking it can simply regulate it into existence and the focus should be on structural market reforms to grow pensions and retail savings.

On *tokenisation of financial assets*, the Governor noted that using distributed ledger technology, or similar technologies, to 'tokenise' real assets with real value, has vast potential to realise advancements in both real-time and dynamic transaction processing. In contrast the Central Bank's concerns remain regarding speculative crypto assets, particularly for consumers.

(c) *Ireland's role as a growing financial centre in Europe*

On 18 November 2024, Deputy Governor Vasileios Madouros delivered [remarks](#) entitled 'Ireland's role as a growing financial centre in Europe' during the Central Banks' Financial Services conference 2024. The following are the key takeaways from his speech:

The Deputy Governor's speech focused on the **outlook for financial regulation**, amid a shifting geo-economic environment and calls for:

- effective implementation and development of globally-agreed standards. Divergences in regulatory standards can lead to fragmentation of global finance, contributing to the build-up of vulnerabilities and undermine the flow of capital across borders.
- effective oversight, supervision, and crisis management arrangements.

The Deputy Governor noted the growing interconnections within the financial system.

In Ireland, by 2023, the funds sector accounted for around 55% of the total assets of the Irish financial sector and except for property-related activity, there are limited financing links between the funds sector and domestic companies.

(d) *Progress, not regress: Financial regulation in challenging times.*

On 18 November 2024, Governor Makhoulf delivered [remarks](#) entitled '*Progress, not regress: Financial regulation in challenging times*' during the Central Bank's FS Conference 2024. The following are the key takeaways from his speech:

The Governor's remarks focused on the interaction of good regulation and economic growth and **cautions against a financial de-regulatory agenda**, he stated that "calling for lighter regulation or for lower standards or indeed howling at the moon of no regulation at all is in no-ones' interests". The Governor also noted that:

- The benefits of financial services can only accrue if the system is resilient and if it is trustworthy. Important roles for the boards and management of financial services firms as the primary bearers of responsibility for managing the risks faced. Rather than being in *conflict*, economic growth and good regulation are in fact *complementary*.
- On **fitness and probity** matters, following the recent Enria review, a centralised F&P unit in the Central Bank will be up and running by the end of 2024 with enhancements to its own processes and decision making. In 2025, the Central Bank will also be publishing consolidated and enhanced guidance on F&P standards.
- Regulators need to be upfront about the costs of regulation and clear about its benefits - regulations should be regularly reviewed and well designed to ensure they meet their intended outcomes.

The Governor noted that Europe's focus should be on making more and better investment opportunities available to retail investors, providing more financing for innovative businesses - seek to enable private sector finance to play its part in the transition to net zero, through more green and transition financing— as well as continue to lead in regulation of fintech and climate finance.

On 14 November 2024, the Central Bank published its [refreshed strategy 2024](#) covering the coming three years (2025-27) focusing on its four themes – future -focused, open & engaged, safeguarding, transforming.

(e) *Foundations for the future - technology as a source of good in the financial system*

On 14 November 2024, the Central Bank published a [speech](#) delivered by Deputy Governor, Sharon Donnery at the FinTech Ireland Summit 2024 highlighting the criticality of technology and innovation in the financial sector entitled '*Foundations for the future - technology as a source of good in the financial system*'.

While Ms Donnery's remarks focused on the FinTech sector the speech recognised that finance and technology have become increasingly inseparable - with more widespread and deeper usage of AI and tokenisation representing the potential next frontier. The speech provides insights on the Central Bank's approach to supervising innovation in financial sector – noting while it has a neutral attitude towards the use of technology in the financial services sector its focus is that manner of deployment delivers benefits without introducing undue risks and as such operational continuity and resilience are the key considerations.

The Central Bank's basic expectations towards innovation in technology by regulated firms are of good governance, risk management, appropriate control frameworks and delivering for consumers and investors.

The speech also announced a research partnership programme between the Central Bank and Insight Research Ireland Centre for Data Analytics, representing a landmark collaboration to push the boundaries of AI and data science.

(f) *DORA industry briefing*

On 6 November 2024, the Central Bank published [remarks](#) delivered by the Director of Financial Regulation, Gerry Cross at the Central Bank's industry briefing on the upcoming implementation of the EU Digital Operational Resilience Act ("**DORA**"). Key takeaways from the speech include:

Mr Cross noted that when new regulations are introduced there is often a benefit in taking a "high quality implementation" perspective when it comes to the supervisory approach to implementation. Mr Cross stated that while legal requirements are legal requirements there is merit in seeing the value in a committed journey by firms and supervisors from initial implementation and compliance to a richer more fully achieved implementation. Mr Cross also stated that in the context of DORA, the Central Bank's expectations are demanding and that they will be assessing firms' performance including firms' regard to their appropriate starting point, the quality of their approach and their timely closing of any gaps.

In the briefing it was noted that during the ESA's recent dry run exercise on the collection of the register of information (the "**Register**") it was revealed generally there was poor data quality across submissions. This was observed across all financial entities, not only those regulated by the Central Bank. The Register is expected to be operational by January 17, 2025, and the Central Bank will request first submissions of the Register via the portal during the first week of April 2025 (thereafter annually by March each year). The submissions will undergo an automated validation check, followed by Central Bank personnel's oversight to ensure data quality before submission to the ESAs.

Mr Cross also noted the Central Bank is not anticipating specific DORA-related PCF at this time.

Further workshops on specific DORA requirements are planned by the Central Bank and the ESAs before the end of 2024.

Walkers Financial Regulatory practice group published an [advisory](#) with its top 10 key takeaways from the event.

(g) *Past, present and future of ETFs (This is a further update to section 2.9(d) of this report)*

On 24 October 2024, the Central Bank published [remarks](#) by Deputy Governor, Derville Rowland entitled '*Past, present and future of ETFs*'. Key takeaways from the speech are as follows:

On UCITS ETF naming requirements, Ms. Rowland announced the Central Bank would converge its approach with other fund domiciles and update its UCITS Q&As to clarify the position. The Q&A (as published in markets update (10 of 2024) outlined further at section 2.9(d) of this report) permit a UCITS

ETF identifier to be included at the level of a sub-fund or a share class. This is a significant development which will provide greater clarity for fund managers and investors, particularly where the fund has both listed and unlisted share classes.

On the move of US securities settlement to T+1, Ms. Rowland noted that the Central Bank has not seen a significant uptick in terms of T+1 related breaches in UCITS. Anecdotally, the Central Bank understands short-term trends have recently emerged with regard to an increase in funding gap costs.

Ms. Rowland noted that the Central Bank recently performed a review of the oversight that management companies perform on key players within the ETF ecosystem, looked in detail at authorised participants ("APs") and contracted market makers. The review has identified a number of good practices as well as some areas for improvement, including due diligence, ongoing monitoring and stress testing performed by management companies. In particular, the Central Bank found a lack of board reporting concerning the activities of these firms. The review also identified potential reliance and concentration on a small number of APs and contracted market makers. In addition to an industry communication issuing on the findings as outlined at section 2.5 of this report, Ms Rowland noted more engagement from management companies in this area would be helpful.

On efforts to increase retail market participation in investment products, the Central Bank will shortly be undertaking analysis and research targeted, large scale, consumer survey of investors and non-investors to gain a clearer understanding of key drivers and barriers to retail investor participation.

Ms. Rowland's remarks also discussed continuing engagement with industry on understanding how *tokenisation and related technology* will sit within the existing regulatory framework.

Ms Rowland confirmed the Central Bank is supportive of the recommendations made in the *Funds Sector Review Report*.

(h) *Unity creates strength*

On 9 October 2024, Derville Rowland delivered [remarks](#) at the International Investment Funds Association Conference entitled '*Unity Creates Strength*'.

On the rising risks from frauds and scams targeting retail investors, Ms. Rowland noted the Central Bank have been engaging with a number of large tech firms since the start of the year (2024), including Google, encouraging them to do more to ensure they are not facilitating consumer harm. Ms Rowland welcomed Google's [announcement](#) that they will introduce a verification process for financial services advertisers.

The speech also highlighted the [publication](#) findings from the Central Bank's consumer research and mystery shopping exercise on '[Marketing and Advertising Investment Products](#)' which looks at the experience of retail investors interacting with investment firms, their views of the sector and the issues they have faced.

The research highlighted that disclosures and the provision of information are challenges for retail investors, namely that important disclosures and regulatory information (including risks, warnings and fees) tend to use language that is more technical, and text based. The research found that retail investors often find it challenging to compare products while inconsistent and misleading use of information and other content can cause confusion and poor engagement by investors. Such challenges are consistent with previous [supervisory work](#) on costs and charges which found there is more that could be done by firms in providing clarity and detail on the fees charged to retail investors.

Ms Rowland outlined the Dear CEO letter on MiFID II marketing communications to retail clients as outlined at section 2.7 of this report. Ms Rowland outlined how a prevailing theme is also the impact of different fee arrangements for retail investors as compared with the more favourable terms offered to institutional investors. A firm which has strong investor centric culture, will be challenging themselves on such fee arrangements to assess whether they are justifiable and appropriate.

(i) *Governing for the good – doing the right thing*

On 3 October 2024, Deputy Governor Sharon Donnery delivered [remarks](#) to the Institute of Directors entitled '*Governing for the good – doing the right thing*' which outlined the importance of good governance and organisational culture – and try to answer 'what does good look like?'. Some key takeaways from the speech are as follows:

- Good governance and risk management is treated as a founding pillar of their business. Governance is also something that needs to continuously evolve to be reviewed, updated and enhanced regularly – not just in the face of evolving governance codes.
- Risk management, traditionally a backward-looking exercise based on historic data, needs to adapt too – with more forward-looking risk management techniques necessary in a changing and uncertain world.
- Firms need to take more ownership of their governance and risk management, including a proactive, rather than reactive, approach to managing the risks and uncertainties facing their business and their customers, i.e. it is critical that organisations are proactively attending to their culture and governance in the good times, to ensure they stand the test in the bad times.
- The “defining cultural test” is how a firm deals with adverse situations and adverse situations are the real test too for how good a firm’s governance and risk management is.

Ms Donnery also noted some key attributes for a 'good director' as follows:

- **Strategic** – both in the direction-setting for the organisation, but also in terms of their own contribution – what are you influencing and affecting; what are you picking up?
- **Inquisitive** - curiosity to ask questions and to probe for answers. This is particularly true for INEDs, who need to verify and seek evidence – part of the independence they bring and ensuring they hold the board and senior management to account.
- **Forward looking** - anticipating trends and looking to the future – both in terms of growth and risks – should be a key part of a director’s contribution to the collective direction of the company’s affairs.
- **Risk-based**, in terms of identifying the most material issues and risks for their organisation, considering at a board level you can only cover so much.

Combining all these attributes directors need to bring a unique and independent perspective to table, given the importance of broad experience, backgrounds and thinking being contributed to the collective.

(j) *Regulating for better outcomes*

On 1 October 2024, Gerry Cross, Director of the Financial Regulation - Policy and Risk Group, delivered [remarks](#) entitled 'Regulating for Better Outcomes'. Mr. Cross highlighted the Central Bank's commitment to an outcome-focused approach in service of the interest of the public, through four critical pillars: resilience, consumer protection, individual accountability, and supervisory practices.

The speech highlighted DORA and the need to continuously adapt to new risks, such as cyber threats or global conflicts.

The speech also included remarks on the **IAF** as a further example of smart targeted regulation with proportionality is at its heart. The IAF is a form of “with the grain” regulation and 'seeks to take what a firm and its leadership is trying to achieve and to embed a regulatory perspective within that'.

On the Central Bank’s **approach to supervision of the IAF**, Mr. Cross noted that through extensive engagement it is clear stakeholders are generally supportive of the proposed regulatory developments, but there was concern that supervisory practices had not evolved sufficiently to make such “accountability” regulations work effectively and that the IAF would be seen as an “enforcement” mechanism to be deployed by the Central Bank. The Central Bank will seek to reflect these concerns in its supervisory implementation of the IAF. Mr. Cross noted that while good regulation, must always

be underpinned by an ultimate possibility of sanctions, the Central Bank's approach to implementation and supervision is centred on the idea that the process and quality of implementation by firms of these advanced governance concepts is its central focus.

Mr Cross also noted the forthcoming reconfiguration of the Central Bank's own integrated supervisory framework where directorates will be responsible for the supervision of all the functions in their respective sectors which will take effect in January 2025.

2.12 Industry Funding Regulations 2024

On 2 October 2024, the Central Bank Act 1942 (Section 32D) Regulations 2024 ([S.I. No. 493/2024](#)) (the "**Industry Funding Regulations**") was published in Iris Oifigiúil. A schedule sets out the industry levy contribution for each category of regulated entity related to activities in 2023.

The quantum of the investment fund levies has increased from 2023 whereby all investment funds authorised by the Central Bank will be liable to pay a minimum levy of €8,240 (increase of €1,075) in respect of single strategy and umbrella funds with one sub-fund. Umbrella funds will also pay a contribution per sub-fund of €546 (increase of €71) up to a maximum of twenty sub-funds, resulting in a potential maximum contribution for umbrella funds of €19,160.

All investment fund service providers, which have been authorised by the Central Bank are liable to pay the levy contribution corresponding to their respective PRISM impact categorisation (high, medium high, medium low and low). Levies for investment fund service providers falling within sub-categories E2a, E2b, E2c and E2d have decreased again in 2024.

2.13 Funding strategy and guide to the 2024 Industry Funding Regulations.

On 3 October 2024, following S.I. No. 493/2024, the Central Bank published its [Funding Strategy and Guide to the 2024 Industry Funding Regulations](#).

The Central Bank will send almost all regulated entities a 2023 levy invoice and the levy must be paid no later than 28 days from the date on the levy invoice. However, even if a regulated entity does not receive a levy invoice, it is still legally obliged to pay the appropriate levy for its industry funding category. Any such regulated entity should request a copy levy invoice by email from billing@centralbank.ie.

The Central Bank has moved to issuing levy notices by email with respect to the Levy 2023 process. To facilitate this change, the Central Bank required the assistance of regulated entities in providing it with email details for invoicing purposes via the Portal messaging system. The Central Bank recommends that any firm that has not yet activated its Central Bank Portal account, should go to the Central Bank's Portal to register.

2.14 ORION guidance (updated)

The Central Bank has published the following [new materials associated with the ORION system](#):

- ORION General User Guide; and
- ORION Common Troubleshooting Guide.

Both documents take into account the latest phase of the transition of submissions to Portal with the [Change of Process for Submission of UCITS Mergers, AIF Amalgamations and Applications for Clearance of Investment Managers and Non-EU AIFMs](#).

The revised troubleshooting document includes:

- Q&A on how to interpret the New Regulated Entity screen reference to 'ONR'; and
- confirming that a letter of delegation is no longer required where the proposed portal administrator is not an employee of the AIFM.

2.15 F&P performance report

On 17 October 2024, the Central Bank published its F&P [performance report](#) for the first half of 2024.

The report provides information in relation to the processing of applications for PCFs during H1 2024. The report aims to help maintain transparency and clarity in the Central Bank's assessment of PCF applications.

On 19 December 2024, the Central Bank issued a [press release](#) announcing the establishment of its dedicated F&P Unit which will be staffed by existing experienced Central Bank personnel.

The new F&P unit is a central component of the Central Bank's implementation of the reforms recommended by the [Enria report](#) and will be implemented from January 2025 alongside [other changes](#) to the Central Bank's operating structure and supervisory approach.

2.16 Research paper on first mover advantage in funds

On 30 October 2024, the Central Bank published a research piece entitled '[First mover advantage in funds revisited](#)'.

The research investigates the presence and impact of first-mover advantage that motivates run-like redemptions from open-ended funds ("OEFs"), with liquidity mismatches potentially amplifying financial crises. The research analysed fund flows from a substantial cohort of Irish-regulated funds in times of market shock e.g. March 2020.

The findings include that bonds and equity strategies with larger ownership exposure to prone-to-run funds suffered greater price impacts. The research also showed that for corporate bond funds the outflow response to poor performance is more pronounced (greater flow sensitivity) than the inflow response to good performance. The structure of corporate bond OEFs therefore makes them particularly vulnerable to large redemptions during market downturns.

The paper concludes that an effective liquidity management framework and regulatory oversight can potentially mitigate OEF illiquidity risk to maintain stability in the financial markets. It also notes the presence and significance of OEF vulnerabilities, leading to fund fire sales caused by fund structures and which could be potentially addressed by more targeted regulatory measures.

The paper includes a non-technical summary and is another contribution from the Central Bank to the ongoing regulatory focus on mitigating risk of liquidity mismatch for OEFs and the debate on the necessity for greater regulation of first mover advantage in funds.

2.17 Investment fund statistics Q3 2024

On 29 November 2024, the Central Bank published its Investment Fund [statistics](#) for Q3 2024, which show net asset values of Irish domiciled funds increased for the eight successive quarter, by €185bn to €4,676bn, in Q3 2024, driven by transaction inflows of €49bn and positive revaluations of €33bn.

On 5 December 2024, EFAMA published its European Quarterly Statistical [Release](#) for Q3 2024 entitled 'Slower long-term fund inflows and strong demand for money market funds in Q3 2024', which shows that net assets of UCITS and AIFs rose by 2.7% in Q3 2024. The report highlights that UCITS and AIFs saw robust net inflows of EUR 179 billion in Q3 2024, comprised of net inflows of UCITS amounting to EUR 174 billion and net inflows of AIFs amounting to EUR 5 billion and ETFs maintained their positive inflow momentum. The release notes that net outflows from SFDR Article 9 funds continued, but long-term Article 8 fund flows registered net inflows of EUR 37.5 billion.

3. OTHER LEGAL AND REGULATORY DEVELOPMENTS

3.1 Department of Finance

- (a) *Finance Act 2024 (No. 43 of 2024) (the "Act") (This is a further update to section 3.2(a) of the quarterly report covering the third quarter of 2024)*

On 10 October 2024, the Minister for Finance published the [Finance Bill 2024](#) which was passed by Dáil Eireann on 5 November 2024. Following the completion of the Oireachtas legislative process, the [Act](#) was signed into law on 12 November 2024.

Key amendments of relevance to Ireland's private funds offering are reflected in the Act, namely the participation exemption for foreign dividends and VAT exemption for fund management applies to relevant Irish 1907 limited partnerships. The Act also contains minor amendments to Ireland's rules on the OECD's global anti-base erosion model aimed at ensuring that multinational enterprises would be subject to a global minimum 15% tax rate ("**Pillar Two**").

- **Participation Exemption for Foreign Dividends.** The Act implements the dividend participation exemption containing amendments from the previous drafting proposed in the Department's Second Feedback Statement with respect to in-scope distributions.

A number of conditions must be satisfied for the participation exemption to apply, including:

- the recipient company must hold a minimum of 5% of the paying company for at least 12 months;
- the paying company must be tax resident in an EU/EEA state or in a jurisdiction with which Ireland has a double tax agreement and must not be in a jurisdiction included on the EU list of non-cooperative jurisdictions for tax matters;
- the dividend must be income in the hands of the recipient for the purposes of corporation tax and cannot be deductible for foreign tax purposes; and
- the dividend must either (i) be paid out of profits or (ii) be paid out of assets and the paying subsidiary must bear the cost of the dividend.

The participation exemption will apply to distributions made on or after 1 January 2025.

- **VAT exemption for management of AIFs.** The Act clarifies that the Irish VAT exemption for the management of EU AIFs covers Irish AIFMs (and AIFMs that are authorised by or "registered with" a relevant NCA). The previous wording of the exemption had seemed to imply that the management VAT exemption did not apply to Irish AIFMs.

The Act clarifies that 1907 limited partnerships that are managed by an EU regulated AIFM, including an Irish AIFM, can qualify for the Irish VAT exemption for the management of EU AIFs.

- **Pillar Two.** The Act amends Ireland's existing Pillar Two legislation to provide for the Irish domestic top-up tax liability a "securitisation entity" to be imposed on another Irish member of the Pillar Two multinational group in certain cases. An amendment was also included to exempt from the scope of the Irish domestic top-up tax investment undertakings (such as authorised Irish ICAVs) with revenues above €750,000,000 and which are not members of a consolidated group for accounting purposes.

- (b) *Fund Sector Review 2030 (This is a further update to section 2.1 of the quarterly report covering the first quarter of 2024)*

On 22 October 2024, the Department of Finance [published](#) the report on the Funds Sector 2030 (the "**Review**").

The Report is wide-ranging in nature and the Review team has developed a set of 42 recommendations across the following nine identified themes:

- the sector's growing and important role for, and in, society;
- drivers of growth will likely continue for the foreseeable future;
- growth in exchange traded funds, passives and index funds;
- growth in private assets;

- scale in distribution in a competitive global marketplace;
- an increasingly complex sector;
- financial challenges and consolidation;
- measures enabling greater retail participation; and
- the disruptive potential of technology.

The Review team concluded that Ireland is well placed to grow in the funds and asset management sector, but that the emerging backdrop means that what has worked for Ireland in the past will not necessarily work into the future. The Review outlines a set of recommendations to address the most material issues and, critically, to put in place measures that will help us to navigate the further changes that are coming in a controlled way.

On **private assets**, the Review recommends that a package of measures be progressed, targeted at improving the attractiveness of Ireland's existing authorised fund structures. This includes recommendations for the Central Bank to review the existing AIF Rulebook and associated requirements regarding the establishment of private asset funds in Ireland, and for the Tax Division in the Department of Finance to progress measures designed to improve the investment limited partnership, with regard to the participation exemption currently being designed and a review of the scope of the dividend withholding tax exemption.

On **enabling retail participation** in the funds sector the Review recommends a number of reforms to the taxation of Irish-domiciled funds, with similar amendments to be made to the taxation of equivalent products domiciled in EU, EEA and OECD territories, in order to bring about closer alignment with taxation on other savings and investment products. These recommendations include the removal of the eight-year deemed disposal requirement, lowering the 41% tax rate under the Investment Undertakings Tax ("**IUT**") regime to 33% (to align with the rate of Irish capital gains tax), and to introduce a limited form of loss relief for IUT. These proposed changes, if implemented, should only be relevant for certain Irish resident investors.

Next steps

The recommendations in the Report have been endorsed by the Government for implementation and/or further consideration. The Central Bank has welcomed the publication of the Report and noted it supports the recommendations included and looks forward to working with the Department of Finance on the implementation of the recommendations.

Walkers' Asset Management & Investment Funds published an [advisory](#) which highlights the key aspects of this significant report.

3.2 EMIR Regulation (648/2012) ("**EMIR**")

- EMIR 3.0 and related amending Directive published in OJ (This is a further update to section 3.2(b) of the quarterly report covering the first quarter of 2024)*

On 4 December 2024, the following legislation amending EMIR was published in the OJ:

- [Regulation](#) ((EU) 2024/2987) amending EMIR as regards measures to mitigate excessive exposures to third-country central counterparties ("**CCPs**") and improve the efficiency of Union clearing markets ("**EMIR 3.0**"); and
- [Directive](#) ((EU) 2024/2994) amending the UCITS Directive, the CRD IV Directive, and the Investment Firms Directive as regards the treatment of concentration risk arising from exposures towards CCPs and of counterparty risk in centrally cleared derivative transactions (the "**Amending Directive**").

EMIR 3.0 and the Amending Directive entered into force on 24 December 2024 and among other things seek to mitigate excessive exposures to third-country central counterparties, increase the attractiveness and the competitiveness of the EU clearing ecosystem and improve the efficiency of Union clearing markets post-Brexit, including through the introduction of the EU CCP active account obligation.

In-scope counterparties required to set up an active account at an EU CCP must do so and clear a representative number of derivatives through the account by 25 June 2025.

In addition, among other things, EMIR 3.0 amends the clearing threshold calculation methodology for counterparties, sets down rules for application of penalties by NCAs for breaches and makes certain changes to the reporting exemption of intragroup trades for non-financial counterparties.

EMIR 3.0 requires counterparties to apply to their NCA for authorisation before using, or changing, a model for IM calculation as well as introducing the supervision of IM models focusing on those used by larger counterparties.

In light of the difficulties expected for competent authorities (referred to in Article 2(13) of EMIR) and counterparties in complying with the IM model provisions, on 17 December 2024, the EBA (in cooperation with the other ESAs) [published](#) an [opinion](#) in the form of a 'no-action letter' addressed to all such competent authorities and applicable to all counterparties falling within the scope of IM model authorisation. The letter advises all such competent authorities *not to* prioritise supervisory or enforcement action regarding the IM model authorisation mandate under EMIR 3.0, until a number of key deliverables including its own central validation function, RTS and guidelines (which are current outstanding and mandated under EMIR 3.0), become applicable.

EMIR 3.0 will apply from 24 December 2024 as the date of entry into force, subject to certain measures which will not apply until the date of adoption of dependant technical standards. Member states are expected to transpose the Amending Directive within 18 months, i.e. by **25 June 2026**.

(b) *ESMA consultation on active account requirements ("AAR") of EMIR 3.0*

On 20 November 2024, ESMA published a [consultation paper](#) on the AAR following the review of EMIR rules on EU clearing services.

EMIR 3.0 includes a new requirement for EU counterparties that are subject to the clearing obligation and that exceed the clearing threshold in respect of any of a list of specific categories of derivative contracts (namely (a) interest rate derivatives denominated in euro or Polish zloty and (b) short-term interest rate derivatives denominated in euro) to hold at least one operational and representative active account at a CCP authorised to offer services and activities in the EU and clear at least a representative number of trades in that active account. Where a counterparty is in scope of this requirement it shall notify ESMA and its relevant NCA thereof and shall establish such an active account within six months of becoming subject to that obligation.

Third-country entities that are not subject to the clearing obligation under EU law are not subject to the obligation to maintain an active account.

UCITS counterparty risk limits

Under the Amending Directive, a number of complimentary reforms will be introduced reflecting the use of CCPs in derivative transactions. These include the disapplication of the counterparty risk limits under UCITS Directive (Article 52) and under the MMFR for derivative transactions that are centrally cleared by a CCP, that is authorised or recognised under EMIR. Currently the counterparty risk limits apply to over-the-counter ("**OTC**") derivative transactions, irrespective of whether the derivatives were centrally cleared. This reform is intended to establish a level playing-field between exchange traded and OTC derivatives and better reflect the risk reducing nature of CCPs in derivative transactions.

ESMA's consultation seeks stakeholder input on several key aspects of the AAR, including the:

- three operational conditions to ensure that the clearing account is effectively active and functional, including stress-testing;
- representativeness obligation for the most active counterparties; and
- reporting requirements to assess compliance with the AAR.

ESMA proposes to set the clearing threshold values for the purpose of the AAR clearing obligation in accordance with those prescribed in Article 11 of the Commission Delegated Regulation ((EU) [149/2013](#)) (known as the Delegated Regulation on clearing thresholds).

ESMA will consider the feedback received to the consultation in a short window until 27 January 2025 and aims to submit the final draft RTS to the Commission within 6 months following the date of entry into force of EMIR 3.0 (i.e. 24 December 2024).

3.3 European Commission (the "**Commission**")

(a) *Commission President speech on the next EU legislative cycle*

On 27 November 2024, the Commission President delivered a [speech](#) on the programme for the new panel of EU Commissioners as they were confirmed by the EU Parliament.

In the Commission president's remarks, she announced a new "*Competitiveness Compass*" as a key initiative of the new Commission – to focus on the following, as indicated by the Draghi report:

- closing the innovation gap with US and China;
- joint plan for decarbonisation and competitiveness; and
- increasing security and reducing dependencies.

On the theme of regulatory burden, the President outlined the need to streamline EU rules to reduce the burden on businesses and announced that "one of our first steps in the new mandate will be a new omnibus legislation" which will assess European legislation across different sectors.

The President's remarks also stressed that this will be "an investment Commission", emphasising the significant role to be played by private investment. The new EU Commissioner for DG FISMA (*Financial Stability, Financial Services and Capital Markets Union*), Maria Luis Albuquerque will take charge of the new European Savings and Investments Union – to ensure that European companies can find the capital they need in Europe.

Her remarks also confirmed the new Commission will stay the course on the goals of the European Green Deal and intends to introduce a proposal for a 'clean industrial deal' within the first 100 days.

(b) *Publication of EU Listing Act package*

The EU's Listing Act package was published in the OJ on 14 November 2024 and will enter into force on 5 December 2024, comprising:

- [Regulation \(EU\) 2024/2809](#), which will amend the Prospectus Regulation ((EU) 2017/1129), the Market Abuse Regulation ((EU) No 596/2014) and MiFIR ((EU) No 600/2014) (the "**Listing Regulation**");
- [Directive \(EU\) 2024/2811](#), which will amend MiFID II (2014/65/EU), in particular the MiFID II research unbundling rule, introduce an EU code of conduct for issuer-sponsored research and repeal the Listing Directive (2001/34/EC); and
- [Directive \(EU\) 2024/2810](#), allowing the use of multiple-vote share structures by companies seeking a first listing of shares on a multilateral trading facility.

Walkers' Financial Capital Markets team have published insights on the [Prospectus Regulation](#) and [Market Abuse changes](#) introduced by the Act.

(c) *Responses to the Commission consultation on the review of the EU macro-prudential policy framework for non-bank financial intermediation ("**NBFI**") (This is a further update to section 2.9(a) of this report and section 4.1(a) of the report covering the second quarter of 2024)*

On 22 November 2024, the [Central Bank](#) and [ESMA](#) published their respective responses to the Commission's targeted [consultation](#) on the review of the EU macro-prudential policy framework for the NBFIs. The Central Bank response should be read in conjunction with [Eurosystem response](#).

A number of themes are addressed across the responses, such as implementing the reform of money market funds regulation and greater convergence and supervisory co-ordination on setting leverage limits, including reviewing systemic risk arising from UCITS that follow a Value-at-Risk (VaR) approach to leverage.

Noteworthy is ESMA's support for the implementation of the FSB [recommendations](#) on liquidity management in open-ended funds ("OEFs"), including the classification of OEFs based on asset liquidity (liquid, less liquid or illiquid) with each category then subject to specific expectations in terms of their redemption terms and conditions.

The Commission's consultation was issued in response to recent major events and the financial stability concerns which emerged. The responses received will now be considered by the Commission.

(d) *Commission consultation on securitisation framework*

On 9 October 2024, the Commission launched a targeted [public consultation](#) on the functioning of the EU securitisation framework.

The securitisation framework has been a key area of focus in the recent Letta and Draghi reports, as well as statements from the Eurogroup and EU Council. A recalibration of the post-financial crisis rules is seen as necessary to re-launch the EU securitisation market, strengthen the lending capacity of European banks, create deeper capital markets, and contribute to building the Savings and Investments Union.

The consultation seeks feedback from relevant stakeholders on the current EU securitisation framework and identify potential areas for improvement. The consultation is detailed and includes questions on a broad range of issues including on:

- jurisdictional scope of application;
- effectiveness and the functioning of the simple, transparent and standardised securitisation framework; and
- seeks feedback on a number of definitional changes. Of particular interest to the funds industry are the questions posed by the Commission on whether the definition of a sponsor be expanded to include AIFMs established in the EU and whether any specific adaptations or safeguards are necessary in AIFMD to enable AIFMs to fulfil the functions of a sponsor in a securitisation transaction.

The consultation will remain open for eight weeks and output from the Commission following the consultation is expected in Q2 2025.

On 20 December 2024, ESMA published a [feedback statement](#) summarising the responses received to its [consultation paper](#) on the securitisation disclosure templates mandated under the Securitisation Regulation (EU) 2017/2402. ESMA will work closely with the Commission to explore whether interim adjustments to the technical standards, particularly regarding disclosures for private securitisations, can be implemented before the review of the Level 1 legislative text.

Walkers' Finance and Capital Markets team published an advisory entitled '[European Commission consults on EU Securitisation Framework](#)' which provides further detail and commentary on the Commission's consultation.

3.4 Council of the EU

(a) *Budapest Declaration on competitiveness*

On 8 November 2024, the Council of the EU published the [Budapest Declaration on the New European Competitiveness Deal](#) (the "**Budapest Declaration**"). The Budapest Declaration sets forth a 12-point plan from EU governments which includes an action item to launch "a simplification revolution", seeking

to provide a clear, simple, and smart regulatory framework for businesses. To meet this goal, the Commission must implement concrete proposals on reducing reporting requirements by “at least 25%” in the first half of 2025 and including red-tape and competitiveness impact assessments in future proposals.

Announcing the Budapest Declaration, the Commission President indicated that certain existing and future EU ESG reporting obligations included in CSRD, the EU Taxonomy Regulation and the Corporate Sustainability Due Diligence Directive (EU) 2024/1760 (“**CSDDD**”) will be maintained, but consolidated into one “omnibus” regulation, in an effort to “reduce bureaucracy”. The new omnibus regulation is set [to be published](#) on 26 February 2025.

On 15 November 2024, nine EU Finance Ministers (including Ireland) issued a joint statement addressed to incoming Commissioner for Financial Services, Maria Luís Albuquerque on '*Building a capital markets union in support of European competitiveness*'.

(b) *Provisional agreement on regulation amending the Benchmark Regulation ((EU) 2016/1011)*

On 12 December 2024, the Council of the EU published a [press release](#) announcing it had reached provisional political agreement with the European Parliament on the legislative proposal for a Regulation amending the Benchmark Regulation to streamline benchmark authorisation and registration requirements, and to alleviate the burden on EU companies, particularly smaller benchmark administrators and benchmark users.

The press release highlights a number of key elements of the provisional agreement, including:

- measures to reduce the regulatory burden on administrators of benchmarks defined as non-significant in the EU, by removing them from the scope of current Benchmark Regulation rules. Those benchmarks defined as critical or significant, EU Paris Aligned Benchmark (“**PAB**”), the Climate Transitions Benchmark (“**CTB**”) and certain commodity benchmarks remain in scope. It will be possible for administrators who fall outside of scope to opt in by requesting the voluntary application of rules.
- additional qualitative criteria will be added to the calculation methodology for significant benchmarks.
- ESMA will be granted extended competence, including supervising the endorsement of administrators, which will result in a single entry point for all third country benchmark administrators in the EU.
- supervised entities will only be allowed to use EU and third country benchmarks that claim to take ESG factors into account in their methodology if certain information is disclosed by the benchmark administrator.

The [Parliament](#) and the [Commission](#) also published press releases welcoming the agreement.

The provisional agreement will now have to be confirmed by the Council and Parliament, before being formally adopted by both institutions. Once formally adopted, the final text will be published in the OJ and apply from 1 January 2026.

On 19 December 2024, ESMA published a [consultation paper](#) on guidelines on internal controls for all directly-supervised entities including benchmark administrators (but excluding third-country CCPs)

Among other things, ESMA proposes to expand and clarify its expectations relating to technology in the light of the technology's impact on entities' operations, including the integration of new technologies into entities' internal controls.

By way of example, ESMA outlines that where an entity uses AI, its internal control framework should be mature enough to assess and manage AI risks. This includes the establishment of an entity's AI strategy, ethics and principles, an appropriate governance and risk management framework, sufficient disclosures and system documentation, and controls around the design criteria, modelling, training, evaluation and deployment of AI systems.

The consultation is open to feedback on the draft guidelines until 18 March 2025. ESMA expects to publish a final report on the guidelines by Q4 2025.

3.5 Enactment of Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (44 of 2024) (the "**Act**") *(This is a further update to section 3.4(b) of the quarterly report covering the third quarter of 2024)*

During the period, the [Act](#) was enacted. The Act is aimed at strengthening regulatory, governance and enforcement provisions in the Companies Act 2014. The Act provides the legislative basis to:

- enable companies to avail of holding fully virtual general meetings or by hybrid with online participants deemed present at the meeting, provided the constitution does not provide otherwise;
- enable the merger of two or more designated activity companies;
- enable voluntary provision of gender information on boards. A new provision is being introduced to permit a company to voluntarily submit the gender composition of its board which information may be published (non-identifiable) by the Minister.
- allow PLCs investigate the ownership of its shares, by requiring information from any person that the company knows is, or has reasonable cause to believe to be, or to have been, interested in the shares of the company.
- mechanism for the execution of documents under company seal where the seal and signatures are each on separate pages (original introduced under Covid-19 temporary legislation);
- changes to liquidator filings and a mandatory obligation to apply for restriction of directors or insolvent companies unless relieved by Corporate Enforcement Agency ("**CEA**"), as well as other enhancements to the powers of the CEA;
- provide additional grounds for involuntary strike off including:
 - failure to notify a change of registered office;
 - failure to record a company secretary with the companies registration office;
 - failure to notify the Registrar of Beneficial Ownership of the information in relation to the beneficial owner of a company.

Commencement order

On 22 November 2024, ministerial order [S.I. No. 639 of 2024](#) commenced a number of sections of the above mentioned Act with effect from 3 December 2024.

The commenced provisions include the permanent re-instatement of legislative flexibility to execute documents under seal in different parts and the holding of fully or hybrid virtual general meetings.

3.6 ESMA & ESAs

(a) *ESMA data collection on costs linked to investments in AIFs and UCITS*

On 14 November 2024, ESMA [announced](#) that it is launching a data collection exercise together with the NCAs, on costs linked to investments in AIFs and UCITS.

ESMA has designed a two-stage data collection involving both manufacturers and distributors of investment funds.

- information requested from **manufacturers** will provide an indication on the different costs charged for the management of the investment funds.
- information requested from **distributors** (i.e., investment firms, independent financial advisors, neo-brokers) will inform on the fees paid directly by investors to distributors.

This initiative is designed to contribute to greater transparency on pricing practices, information that has until now not been accessible to retail investors and supervisory authorities. Greater transparency will allow investors to know more about the features of the products that are offered to them and will further support the development of a competitive market for UCITS and AIFs.

The data collection is issued on foot of ESMA's mandate under AIFMD II to produce a report on fees charged to investors in AIFs and UCITS to develop a common of the notion of undue costs (given the lack of a clear definition of undue costs, at present).

The report based on these data assessing the costs charged and explaining the reasons for the level of those costs will be submitted to the European institutions in October 2025. This will also be part of an enhanced ESMA market report on costs and performance of EU retail investment products in 2025.

(b) *ESMA and ESA joint committee work programmes 2025*

On 1 October 2024, ESMA published its [2025 Work Programme](#) and accompanying [press release](#). The press release notes that a significant portion of ESMA's work in 2025 will comprise policy work to facilitate the implementation of the large number of mandates received in the previous legislative cycle, and the preparation of new mandates, such as the European Green Bonds [Regulation \(EU\) 2023/2631](#) and [Regulation \(EU\) 2024/3005](#) on the transparency and integrity of environmental, social and governance ("ESG") rating activities, and amending Regulations (EU) 2019/2088 and (EU) 2023/2859 (the "ESG Rating Regulation") outlined at section 4(c) of this report. Following the adoption of [EMIR 3.0](#), ESMA will take on new responsibilities and develop a substantial number of technical standards, including for the new active account requirement.

In addition to preparations for potential new responsibilities under the [Retail Investment Strategy](#) and for the possible shortening of the settlement cycle (T+1) – such report to be published by end of 2024 – other key outputs include technical standards and guidelines under MiFIR/MiFID II and AIFMD/UCITS.

ESMA will intensify its focus on implementing the sustainable finance legal and supervisory framework, combating greenwashing, and promoting transparency in sustainable investments.

Key deliverables

Annex IV to the work programme sets out an overview of ESMA's 2025 deliverables by output type together with a brief description of each type, e.g. technical standards, technical advice, reports and statutory guidelines to be delivered in 2025.

These include RTS under the ESG Rating Regulation & Green Bonds Regulation as well as the following in respect of AIFMD II:

- Guidelines on LMTs of UCITS and open-ended AIFs;
- RTS on the characteristics of LMTs; and
- RTS on open ended loan originating AIFs.

ESMA's ESG guidance outputs to be delivered in 2025 which are currently known include:

- greenwashing indicators to support NCA supervision; and
- guidance on sustainability claims to financial market participants ("FMPs").

ESMA will also build on the various CSAs that have been conducted in 2023-2024 with a sustainability angle. ESMA intends to develop machine-readable templates for SFDR disclosures (subject to Commission adoption of revised standards). The Commission's assessment and potential review of SFDR may also generate requests for advice in 2025. ESMA will monitor the implementation of the ESMA guidelines on funds' names using ESG or sustainability-related terms.

Specific planned reports to the Commission include:

- report on fees charged to investors under AIFMD and the UCITS Directive mandated under AIFMD II as outlined above.
- technical advice on the review of the UCITS Eligible Assets Directive

A summary of ESMA's planned CSAs of interest are as follows.

Sub-Activity	2025 CSAs
Retail investor protection	<ul style="list-style-type: none"> • CSA on MiFID II requirements on suitability/sustainability.
Investment Management	<ul style="list-style-type: none"> • Report on 2023-2024 CSA on sustainability in investment management. • Peer review on depositary obligations under the UCITs Directive and AIFMD.
Investment services	<ul style="list-style-type: none"> • Statement on CSA 2024 on integration of sustainability preferences in firms' suitability assessment.
Sustainable finance	<ul style="list-style-type: none"> • CSA on BMR ESG disclosures.
Trading	<ul style="list-style-type: none"> • CSA on pre-trade controls.

Following on from ESMA's work programme, the joint committee of the ESAs published its own [Work Programme for 2025](#) on 7 October 2024 which places particular emphasis on ongoing collaboration to tackle cross-sectoral risks, promoting sustainability in the EU financial system and strengthening financial entities' digital resilience.

More specifically, the ESAs joint committee will undertake joint work in 2025 to:

- provide further guidance on sustainability disclosures;
 - make progress on financial entities' digital operational resilience by, among others, launching the oversight of critical information and communication technology ("ICT") third-party providers and implementing the major ICT-related incident coordination framework in accordance with DORA;
 - monitor financial conglomerates;
 - promote coordination and cooperation among national innovation facilitators with a view to facilitating the scaling up of innovative solutions in the financial sector; and
 - address other cross-sectoral matters such as retail financial services, investment products and securitisation.
- (c) *ESAs letter to the Commission on the retail investment strategy ("RIS") (This is a further update to section 4.2(d) of the quarterly report covering the second quarter of 2024)*

On 14 November 2024, ESMA published a [letter](#) to the Commission, expressing views on how to preserve the interests of consumers in the RIS proposals.

Key takeaways from the ESA's letter are as follows:

- *Retail investment/savings product*

In light of the ESA position paper on improving the effectiveness of the EU capital markets, the letter supports the Council's proposal for "a simple and effective cross-border investment/savings product for retail investors", and to develop "pensions and long-term savings products". The letter suggest the Commission now considers complementing the existing RIS text with proposals reflecting these ideas to prevent multiple revisions of the retail investment framework in a short period of time, which would result in inappropriately increased implementation efforts and costs.

- *PRIPs*

The letter supports the European Parliament's proposal introducing an online comparison tool for PRIPs as a means to provide an unbiased source of information on all relevant product features – including performance, guarantees, costs and fees charged at each step of the investment process.

- *Value for money framework*

The letter expresses continued support to the Commission's proposal setting out the value for money framework in the product pricing process (with European benchmarks for products offered to retail investors).

The ESAs express concern that the effectiveness of this proposal would be significantly undermined by the additional layers of complexity and weakened provisions introduced by the co-legislators, namely:

- national benchmarks;
- companies' peer grouping analysis with the peer group defined by the companies and/ or with the help of a new ESMA and EIOPA database; as well as
- the modified nature of the benchmarks, intended to serve the sole purpose of identifying outliers in the market, without sufficiently spelling out supervisory powers in this context.

The letter emphasises that consumers around Europe shall pay, by and large, similar prices for products offering similar returns and services. Accordingly, the letter cautions against the creation of a dual system, whereby firms' peer grouping requirements would co-exist with European supervisory benchmarks and expresses support for the creation of EU benchmarks for comparable products (offering similar returns and services). Similarly, the letter does not support the idea of the introduction of national benchmarks and encourages the Commission to re-think the amendments put forward by the European Parliament in this regard.

- (d) *Report on move to T+1 settlement cycle in the EU (This is a further update to section 3.5(r) of the quarterly report covering the third quarter of 2024)*

On 18 November 2024, ESMA published its [Final Report](#) on its assessment of the shortening of the settlement cycle in the EU to T+1, i.e. the first business day after the transaction has been executed. Citing the increased efficiency and resilience of post-trade processes (as well as risk reduction, margin savings and the reduction of costs stemming from the misalignment with other major jurisdictions) that should be prompted by a move to T+1, ESMA recommends that the migration to T+1 occurs simultaneously across all relevant instruments. ESMA recommends **11 October 2027** as the optimal date for the transition to T+1 in the EU. ESMA also suggests following a coordinated approach with other jurisdictions in Europe.

The report notes challenges including amending the Central Securities Depositories Regulation ("CSDR") and the settlement discipline framework, in order to have legal certainty and the necessary improvements in post-trading processes to move successfully to T+1.

- (e) *ESMA remarks on supervisory priorities for asset management*

On 21 November 2024, ESMA's Chair, Verena Ross delivered [remarks](#) at the EFAMA Investment Management Forum on supervisory priorities for asset management in the next EU legislative cycle. The speech emphasised financial stability, while also touching on AIFMD II, eligible assets for UCITS and the EU move to T+1 as important topics.

- ESMA plan to closely monitor activation of liquidity management tools under the **AIFMD II** mandate. To avoid regulatory arbitrage e.g. on leverage limits there is a potential role for ESMA in expanding the use of a particular measure in one country across the EU.
- ESMA still have concerns regarding notice periods and liquidity rules for **ELTIFs**, despite disagreement on this point from the Commission.
- To minimise the compliance burden for firms, the ESAs and the ECB are currently looking into integrated EU-level reporting between national and EU supervisors.
- On **eligible assets**, she noted respondents to ESMA's Call for Evidence agreed that greater EU harmonisation would be beneficial. ESMA's technical advice to the Commission will focus on greater EU harmonisation and criteria for direct and indirect exposure to certain asset classes, for which further quantitative data and factual evidence is sought.
- Transition of settlement to **T+1** on 11 October 2027, would lower margin requirements and minimise the costs of misalignment. ESMA will establish a governance framework with industry stakeholders as a priority with a view to minimising regulatory/operational challenges.

- ESMA stands ready to develop, together with NCAs, a harmonised analytical framework for regular liquidity risk assessment for OEFs. Such a framework would allow for more harmonised supervisory actions, on the basis of existing or new supervisory tools, where necessary.

On 20 November 2024, Ms Ross, published an [Op-ed](#) entitled “*Empowering Europeans to invest for their futures*” featured in several European journals. It highlights the recommendations of ESMA’s recent position paper on strengthening EU capital markets and addressing its current needs with a view to a capital markets policy which supports Europe’s economy and enables it to better compete on the global stage.

- (f) *Final ESA report on joint guidelines on the system for the exchange of information relevant to fit and proper assessments*

On 20 November 2024, the ESAs published a [final report](#) containing final joint guidelines on the ESA’s information systems (the “**EIS**”) for the exchange of information relevant to the assessment of the fitness and propriety of holders of qualifying holdings, directors and key function holders of financial institutions and FMPs by NCAs.

The EIS is a cross-sectoral database which will hold limited information on persons who are subject to a fitness and propriety assessment under EU sectoral provisions. The aim of the EIS is to support NCAs in identifying other NCAs that have conducted such an assessment process for a person of interest.

The guidelines will apply from the date on which translations are published in all official EU languages, except for certain provisions where it is necessary to feed historical data into the EIS before use. NCAs must notify the respective ESA whether they comply or intend to comply with the guidelines within two months of the translations.

- (g) *ESAs public statement on DORA application*

On 4 December 2024, the ESAs published a [statement](#) on the supervisory expectations on financial entities and third-party providers to ensure their readiness DORA’s application on 17 January 2025.

As DORA does not provide for a transitional period, the ESAs emphasise the importance for financial entities to adopt a robust, structured approach in order to meet their obligations in a timely manner.

The statement also outlines the ESA expectations on financial entities as regards:

- the new reporting obligations of submitting contractual arrangements registers (ICT third-party providers) to NCAs ([ITS](#) with standard templates for the register of information, as published in the OJ); and
- classifying and reporting major ICT-related incidents from the date of application.

The statement notes that considering the risk profile, size, scale, and complexity of the activities of the various financial entities, competent authorities are prepared to supervise the DORA requirements in a risk-based manner and taking into account the EBA’s, ESMA’s and EIOPA’s [Union Strategic Supervisory Priorities](#) (USSPs) and the EBA’s 2025 European Supervisory Examination Programme (ESEP) , which highlight cyber and digital operational resilience.

The ESAs will work with NCAs to deliver a pragmatic, outcomes focused and timely approach to DORA implementation.

- (h) *ESAs’ decision on timeline for information authorities must report for designation of critical ICT third-party service providers under DORA*

On 15 November 2024, the ESAs published a [decision](#) on the information that competent authorities must report to them for the designation of critical ICT third-party service providers (CTPPs) under DORA. The decision confirms the deadline for the first submission of the registers of information to the

ESAs is **30 April 2025** and the ESAs expect competent authorities to collect the registers of information from the financial entities under their supervision in advance using their own timelines.

The ESAs hosted an [information workshop](#) on how to prepare the registers of information and the recent [key findings](#) of their 'Dry Run' exercise relating to the reporting of the registers.

(i) *Implementing technical standards ("ITS") on standard template for register of information under DORA*

On 15 October 2024, the joint committee of the ESAs published an [opinion](#) on the Commission's amendments to the draft implementing technical standards (ITS) on registers of information under DORA.

Financial entities are required under Article 28(3) of DORA to maintain and update a register of information relating to all contractual arrangements on the use of ICT services provided by ICT third-party service providers. The Commission sent a [letter](#) to the ESAs in September 2024 rejecting their draft ITS, on the grounds that financial entities should have the choice of using European unique identifiers ("EUIDs") as well as legal entity identifier (LEIs), and proposing a revised version of the ITS.

In the opinion, the ESAs set out their reservations about the introduction of the EUID as an identifier for these purposes. In particular, this would require unexpected implementation and maintenance efforts and costs for the financial entities because of the changes in the register templates and the need to collect and provide additional information.

On 2 December 2024, Commission Implementing Regulation (EU) [2024/2956](#) laying down the ITS with regard to standard templates for the register of information under Article 28 of DORA was published in the OJ. The implementing regulation is based on the draft ITS which the ESAs submitted to the Commission and entered into force on 22 December 2024.

(j) *Final report on technical advice on penalty mechanism under CSDR (This is a further update to section 4.2(b) of the quarterly report covering the fourth quarter of 2023)*

On 19 November 2024, ESMA published a [final report](#) on technical advice to the Commission on the penalty mechanism under CSDR. The advice is aimed at improving settlement efficiency, taking into account the proposed move to T+1 in the EU and its recommendations include:

- alternative parameters to calculate the level of cash penalties that central securities depositories will impose on and collect from failing participants in their securities settlement systems due to lack of cash;
- the treatment of historical reference prices for the calculation of late matching fail penalties;
- the design and level of the penalty rates for each asset class.

The Commission will take into account the technical advice in amending the Commission Delegated Regulation (EU) 2017/389.

(k) *ESMA report on NCA sanctions*

On 11 October 2024, ESMA published its first annual consolidated [report](#) on sanctions and measures imposed by NCAs in member states in 2023, as well as its [enforcement snapshot](#) under certain EU legislative texts in ESMA's remit.

The report relates to sanctions and measures under frameworks including AIFMD, UCITS Directive, Benchmark Regulation, EMIR, SFTR and MiFID/MiFIR and seek to improve supervisory and enforcement convergence and facilitates greater transparency on sanctions.

Overall, the report highlights that there is still room for greater convergence between NCAs in the exercise of their sanctioning powers. The highest amounts of administrative fines were imposed under the Markets Abuse Regulation and MiFID II. No administrative sanctions and measures were imposed under the Benchmark Regulation, SFTR or Markets in Crypto Assets Regulation ((EU) 2023/1114) ("MICA"). The report notes in Ireland that no sanctions have been imposed under AIFMD or UCITS Directive since 2013.

ESMA will continue to issue an annual report for future reporting periods.

(l) ESMA remarks

ESMA chair Verena Ross delivered opening statements to the Parliaments' ECON committee on the achievements of [ESMA](#) and the ESA's [joint committee](#) over the past 12 months.

Accompanying the speeches ESMA's chair published snapshots outlining the deliverables of [ESMA](#) and the [joint committee](#) over that period.

(m) *ESMA newsletters – spotlight on markets*

During the period, ESMA issued its latest spotlight on markets newsletters covering its publications in each of [August and September](#), [October](#) and [November](#) 2024.

(n) *ESMA consultation on MiFID II research provisions*

On 28 October 2024, ESMA published a [consultation paper](#) on draft technical advice to the Commission on amendments to the MiFID II research provisions in the context of changes introduced by the [Listing Act](#).

The paper focuses on changes to the MiFID II Delegated Directive ((EU) 2017/593) relating to the payment for research and execution services.

ESMA's proposes including high-level requirements in Article 13 of the MiFID II Delegated Directive to align it with the new payment option offered under the Listing Act, which allows joint payments for execution services and research irrespective of the market capitalisation of the issuers covered by the research.

ESMA states that the proposals will be of interest to NCAs, investment firms subject to MiFID II, research providers and investors.

The deadline for comments on the draft advice is 28 January 2025. ESMA expects to submit its final report containing its technical advice to the Commission in Q2 2025.

(o) *Final package of ESMA policy documents under MiCA*

On 17 December 2024, ESMA [published](#) its third and final reports containing draft RTS and final guidelines under MiCA consisting of :

- RTS specifying certain requirements relating to the detection and prevention of market abuse
- Guidelines on reverse solicitation
- Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments
- Guidelines specifying certain MiCA investor protection requirements; and
- Guidelines on the maintenance of systems and security access protocols.

The final report with the draft RTS has been submitted to the Commission for adoption. The Commission will decide whether to adopt the RTS within three months. The guidelines will be translated into the official EU languages and published on the ESMA website.

On 10 December 2024, the ESAs published a [final report](#) on draft guidelines on templates for explanations and opinions, and the standardised test for crypto-assets, under Article 97(1) of MiCA. The templates for explanations and legal opinions provide descriptions of the regulatory classification of crypto-assets for asset-referenced tokens (ARTs), and crypto-assets that are not ARTs or EMTs under MiCA, on the other. In each case, the white paper for the issuance of the crypto-asset must be accompanied by a legal opinion that explains the classification of the crypto-asset when communicating the regulatory classification to supervisors.

On 17 December 2024, ESMA published a [statement](#) on the transitional measures under Article 143(3) of MiCA whereby individual member states may allow crypto-asset services providers ("**CASP**") to continue to provide services under their existing (pre-MiCA) national crypto-assets regime. The

statement outlines that the "inherently non-unified approach" means that CASPs will face different transitional periods depending on the member state or member states in which they are active.

(p) *ESMA Q&A on MiCA*

On 11 October 2024, ESMA published a new Q&A ID [2295](#) concerning the status of entities providing crypto-asset services as part of the MiCA grandfathering regime.

The Q&A clarifies that crypto-asset service providers that have provided their services in accordance with applicable law before 30 December 2024 may continue to do so until the end of the applicable transition period (and not later than 1 July 2026), or until they are granted an authorisation, in accordance with MiCA. Pending authorisation within the meaning of Article 3(1)(15) of MiCA, such entities do not constitute CASPs under the terms of MiCA.

(q) *ESMA opinion on draft MiCA RTS on authorisations and notifications*

On 16 October 2024, ESMA published an [opinion](#) on the Commission's amendments to draft RTS on authorisations and notifications to provide crypto-asset services under MiCA.

In September 2024, the Commission sent ESMA a [letter](#) on the notifications RTS and a [letter](#) on the authorisations RTS, in each case stating that it would adopt ESMA's draft RTS with further amendments. In particular, the Commission considered that ESMA had gone beyond its mandate in requiring applicant CASPs to submit the results of a cybersecurity audit, realised by a third-party auditor.

In the opinion, ESMA acknowledges the Commission's arguments, but also reiterates the importance of the policy objectives pursued by its original proposal to require a cybersecurity audit. It recommends that the Commission should amend MiCA to:

- require applicant CASPs and notifying entities to provide the results of an external cybersecurity audit.
- remove the limitations relating to the scope of the assessment of good repute to allow supervisors to carry out a comprehensive assessment of applicants and their ability to comply with the relevant MiCA requirements.

The Commission will now be required to decide whether to adopt the two sets of RTS.

(r) *Common enforcement priorities for corporate reporting*

On 24 October 2024, ESMA published its annual [European Common Enforcement Priorities \(ECEP\) Statement for 2024](#) corporate reporting.

ESMA and European enforcers will focus in 2025 on the following topics:

- International Financial Reporting Standards (IFRS) financial statements: liquidity considerations and accounting policies; judgements, and significant estimates.
- Sustainability statements: materiality considerations in reporting under the European Sustainability Reporting Standards ("**ESRS**"); scope and structure of the sustainability statements; and disclosures related to Article 8 of the Taxonomy Regulation.
- European Single Electronic Format (ESEF) digital reporting: common filing errors found in the Statement of Financial Position.

Issuers, auditors, and supervisory bodies should consider the topics and detailed recommendations included in this document when preparing, auditing, and supervising the 2024 annual financial reports.

3.7 Financial Stability Board ("**FSB**")

(a) *Annual report on promoting global financial stability*

On 18 November 2024, the FSB published its [2024 annual report](#) on promoting global financial stability, which has been delivered to the G20.

In the report, the FSB highlights concerns about elevated asset valuations, private sector debt and unanticipated changes in policy rate expectations or geopolitical tensions in emerging market and developing economies. The non-bank financial intermediation (NBFi) sector is specifically mentioned in the report, with the FSB noting that private credit funds are exposed to credit risk, leverage and liquidity vulnerabilities, but their opacity makes it difficult to assess them. The FSB also refers to cyberattacks, operational incidents and the potential financial stability consequences of high global greenhouse gas emissions. Key priorities for the FSB include further work on addressing leverage-related vulnerabilities in NBFi.

(b) *Report on financial stability implications of AI*

On 14 November 2024, the FSB published a [report](#) on the financial stability implications of AI. The FSB concludes that, although AI offers benefits such as improved operational efficiency, regulatory compliance, personalised financial products and advanced data analytics, it may also amplify certain financial sector vulnerabilities and consequently pose risks to financial stability. It highlights potential vulnerabilities relating to third-party dependencies and service provider concentration, market correlations, cyber-risks, and model risk, data quality and governance.

The FSB suggests that it, standard-setting bodies and national authorities should:

- consider ways to address data and information gaps in monitoring developments in AI use in the financial system and assessing their financial stability implications. The FSB suggests that national authorities could consider leveraging periodic and ad-hoc surveys on AI adoption and use cases, reporting from regulated entities and public disclosures.
- assess whether current regulatory and supervisory frameworks adequately address the vulnerabilities identified in this report, both domestically and internationally.
- consider ways to enhance regulatory and supervisory capabilities for overseeing policy frameworks related to the application of AI in finance.

The Department of Enterprise in Ireland recently refreshed the [national artificial intelligence "AI" strategy](#).

The Commission has published the first draft of the General-Purpose Artificial Intelligence [Code of Practice](#). The Code of Practice aims to facilitate the proper implementation of the rules in the EU's AI Act.

On 18 December 2024, the European Data Protection Board ("EDPB") [announced](#) in a news release entitled 'GDPR principles support responsible AI' that it has adopted an [Opinion](#) on the use of personal data for the development and deployment of AI models. The Opinion was developed following a request from the Irish data protection authority seeking clarification on several key General Data Protection Regulation ("GDPR") issues.

The EDPB Chair commented "AI technologies may bring many opportunities and benefits to different industries and areas of life. We need to ensure these innovations are done ethically, safely, and in a way that benefits everyone. The EDPB wants to support responsible AI innovation by ensuring personal data are protected and in full respect of the GDPR."

The Opinion aims to give guidance that can be used for conducting analysis of AI models on a case-by-case basis taking into consideration the vast diversity of AI models and their rapid evolution.

(c) *Consultation on leverage in NBFi*

On 18 December 2024, the FSB published a [consultation report](#) with 9 proposed policy recommendations addressed to national authorities and to international standard-setting bodies focused on monitoring and addressing financial stability risks from leverage in NBFi. Entities within

scope include non-bank financial firms that use leverage, either financial or synthetic, including hedge funds and other leveraged investment funds. The consultation progresses the global policy debate on how supervisors should mitigate financial stability risk arising from vulnerabilities associated with NBFIs leverage.

The recommendations cover the following:

- Risk identification and monitoring, supported by a suite of risk metrics (set out in Annex I), and work to assess and address data challenges.
- Measures to address identified financial stability risks related to NBFIs leverage in core financial markets, including measures that affect specific activities (e.g. minimum SFT haircuts, direct limits on leverage, indirect leverage constraints), types of entities as well as concentration related measures.
- Review granularity, frequency, and timeliness of existing public disclosures and determine the degree to which additional or enhanced disclosures should be provided.
- Counterparty credit risk management and private disclosure.
- Addressing inconsistencies by adopting the principle of "same risk, same regulatory treatment".
- Enhancing cross-border co-operation and collaboration.

The FSB notes that market structures, legal frameworks and financial stability risks related to leverage vary across jurisdictions. The report outlines general principles for the selection, design and calibration of policy measures, explaining that, in many cases, combinations of the policy measures outlined may be most effective in addressing financial stability risks arising from NBFIs leverage.

Feedback is sought on the recommendations until 28 February 2025 and the FSB intends to publish the final report in **mid-2025**. The FSB will undertake further work to support and assist authorities in applying the recommendations, including developing guidance regarding the operationalisation of certain recommendations, where appropriate.

On 16 December 2024, the FSB published its [global monitoring report on NBFIs](#). The FSB's annual monitoring exercise shows the NBFIs sector grew at more than double the pace of the banking sector in 2023, led by investor inflows and higher asset valuations.

(d) *Final report on enhancing liquidity preparedness for margin and collateral calls (This is a further update to section 4.6(a) of the quarterly report covering the second quarter of 2024)*

On 10 December 2024, the FSB published a [final report](#) containing policy recommendations to enhance non-bank market participants' liquidity preparedness for margin and collateral calls in centrally and non-centrally cleared derivatives and securities markets. The FSB's recommendations follow from recent market disruptions (e.g. Covid-19, certain commodity market volatility, LDIs), and the FSB highlights the recommendations are likely to apply to a broad range of non-bank market participants, including hedge and other investment funds.

The recommendations are categorised as follows:

- liquidity risk management practices and governance with respect to managing and mitigating exposures to spikes in margin and collateral calls (recommendations one to three).
- liquidity stress testing and scenario design for margin and collateral calls during normal market conditions, as well as in extreme but plausible stressed market conditions (recommendations four and five).
- ensuring sufficient collateral is available, as and when required (recommendations six to eight).

The recommendations are intended to build on and complement existing sectoral rules and regulations for liquidity risk management and governance. By necessity, the recommendations are high-level due to their cross-sectoral nature and the report notes they should be applied proportionately to the underlying risks of *different non-bank market participants*, considering factors such as their exposure to derivatives and securities activities, size, international footprint, organisational structure, business

model, risk profile, degree of interconnectedness with other market participants, and role in the global financial system, as well as the potential impact of risk events.

3.8 International Organisation of Securities Commissions ("**IOSCO**") *(This is a further update to section 4.7(b) of the quarterly report covering the fourth quarter of 2023)*

On 11 November 2024, IOSCO, the global standards setting body published a [consultation paper](#) with its revised recommendations for liquidity risk management for collective investment schemes (CIS), especially for OEFs (the "**Recommendations**").

The revised Recommendations take into consideration the FSB's own [revised recommendations](#) to address structural vulnerabilities from liquidity mismatch in OEFs (December 2023).

IOSCO is also consulting on complimentary [implementation guidance](#) for OEFs for effective implementation of these Recommendations. The implementation guidance sets out technical elements focusing on OEFs, such as the determination of asset and portfolio liquidity and considerations relating to the calibration and activation of liquidity management tools and other liquidity management measures.

The key proposed revisions to the Recommendations can be grouped into four main areas:

- categorising OEFs based on the liquidity of their assets (liquid, less liquid or illiquid), with each category then subject to specific expectations in terms of their redemption terms and conditions (liquidity bucketing);
- encouraging investment managers to implement a broad set of liquidity management tools (LMTs) and other liquidity management measures;
- emphasising the importance of anti-dilution LMTs to mitigate material investor dilution and potential first-mover advantage arising from structural liquidity mismatch in OEFs; and
- incorporating new guidance on quantity-based LMTs and other liquidity management measures.

Consultation feedback is requested from stakeholders by 11 February 2025. IOSCO aims to publish its Final Report with Recommendations in the first half of 2025.

3.9 Screening of Third Country Transactions Act 2023 (the "**Act**") commencement order *(This is a further update to section 4.8 of the report covering the fourth quarter of 2023)*

On 17 December 2024, the Department of Enterprise, Trade and Employment (the "**DETE**") [published](#) a press release confirming the signing of the commencement order for the Act with all provisions of the Act commencing on 6 January 2025.

The Act enables the Minister to respond to threats to Ireland's security and public order posed by particular types of foreign investment, and to prevent or mitigate such threats. The Act gives full effect to the Foreign Direct Investment Screening Regulation (EU) 2019/452 providing for the introduction of an inward investment screening mechanism in Ireland for the first time.

On 13 December 2024, the DETE published [guidance](#) and application documentation setting out information about the responsibilities and obligations arising for third country investors on the implementation of the screening mechanism pursuant to the Act.

4. SUSTAINABLE FINANCE

(a) *ESMA Q&A on the application of ESMA's guidelines on funds' names using ESG or sustainability-related terms (the "**Guidelines**")**(This is a further update to section 4(a) of the quarterly report covering the third quarter of 2024)*

On 13 December 2024, ESMA published Q&As with further details on specific aspects of the practical application of the [Guidelines](#). The new Q&As address green bonds [[UCITS ID2368](#), [AIF ID 2370](#)], the convergence on "meaningfully investing in sustainable investments" [[UCITS 2373](#), [AIF 2374](#)] and the definition of controversial weapons [[UCITS 2371](#), [AIF 2372](#)]. The objective of the Q&As are to ensure

a smooth application of the Guidelines through a common understanding of key concepts and among other matters address the following:

- Q&As on **green bonds** explain that the exclusion criteria (applicable to either EU PAB or CTB) do not apply to investments in European Green Bonds given the high level of protection guaranteed by the EU legal framework for such investments. ESMA has decided to clarify the treatment of Green Bonds in light of the application of the European Green Bonds Regulation from 21 December 2024 as well as the reference in the AIFMD II mandate noting that sectoral legislation takes precedence.

For other green bonds, fund managers may use a look-through approach to assess whether the activities financed are relevant for the exclusion criteria and accordingly such assessment does not need to be performed with respect to the issuer of the green bond itself.

- Q&As on the term “**meaningfully investing in sustainable investments**” present a common understanding among NCAs that funds may not be “meaningfully investing in sustainable investments” if they contain **less than 50%** of sustainable investments. While NCAs should carry out a case-by-case analysis of how any sustainability-related term is used in the name of a fund, they may find that investment funds with "sustainable" terms in their names investing less than 50% of the proportion of investments in sustainable investments are not "meaningfully investing in sustainable investments". That amount could be higher, subject to the circumstances of the case; and
- The Q&A on **controversial weapons** specifies that the reference to the exclusion related to controversial weapons is as referred to in PAI indicator 14 in Annex I to Commission Delegated Regulation (EU) 2022/1288.

Walkers' Asset Management & Investment Funds group have published a recent [advisory](#) which outlines in further detail each of the new Q&As.

- (b) *Central Bank notice of intention on guidelines on the Guidelines (This is a further update to section 4(a) of the quarterly report covering the third quarter of 2024)*

On 21 October 2024, the Central Bank issued markets [update](#) (issue 9) which includes the Central Bank's notice of intention wherein the Central Bank expects full compliance with the Guidelines from 21 November 2024.

The Central Bank will, in due course, consult on the incorporation of related provisions in the Central Bank UCITS Regulations and AIF Rulebook.

- (c) *ESG Rating Regulation (This is a further update to section 3.11(f) of the quarterly report covering the first quarter of 2024)*

On 12 December 2024, the ESG Rating Regulation [\(EU\) 2024/3005](#) was published in the OJ The ESG Rating Regulation will apply from **2 July 2026**.

The Regulation primarily regulates ESG ratings providers servicing EU customers. ESG rating providers established in the EU will need to be authorised and supervised by ESMA and comply with transparency requirements with regard to their methodology and sources of information. ESG ratings providers are required to notify ESMA by 2 August 2026 to continue operating in the EU and are required to apply for authorisation or recognition by 2 November 2026.

The Regulation amends SFDR in order to require FMPs or financial advisers that disclose ESG ratings as part of their marketing communications to include information about the methodologies used on their website and disclose in those marketing communications a link to those website disclosures. The ESAs are mandated to prepare draft regulatory technical standards to specify the information required.

- (d) *Platform on Sustainable Finance: Report on Categorisation of products under SFDR*

On 17 December 2024, the Platform on Sustainable Finance (the "**Platform**"), the advisory expert group to the Commission published a report on the '*Categorisation of Products under SFDR*', taking into account the stated need for simplification and streamlining of EU sustainable finance disclosure regulations and outlining key considerations for the Commission as part of its SFDR review.

The Platform recommends categorising products with the following sustainability strategies:

- **Sustainable:** adherence to a share of EU Taxonomy-aligned Investments or Sustainable Investments with no significant harmful activities adhering to the exclusion criteria, or assets based on a more concise definition consistent with the EU Taxonomy.
- **Transition:** (foster the transition to a net zero and an overall sustainable economy by 2050 and milestones in line with the EU goals) through investments or portfolios supporting the transition to net zero and a sustainable economy, avoiding carbon lock-ins, per the Commission's Transition Finance [guidelines](#).
- **ESG collection:** (select or exclude sectors or companies based on ESG performance) through investments excluding significantly harmful investments / activities, investing in assets with better environmental and/or social criteria or applying various sustainability features.
- All other products should be identified as **unclassified products**.

The report notes the proposed categorisation scheme leverages the positive elements of the SFDR and the broader sustainable finance framework. Categories would have precise minimum criteria, clearly defined objectives, and measurable KPIs. Products within these categories should measure and disclose their sustainability performance.

This report is intended to serve as the basis for the Commission to build a complete and detailed categorisation scheme. The report urges the Commission to consider strong interlinkage with investors' sustainability preferences, a seamless transition by streamlining existing elements of the SFDR and the wider sustainable finance framework, in particular indicators used to measure sustainability and the potential implications of introducing a new categorisation system on existing financial products.

The Platform will host a [webinar](#) to discuss their report on 21 January 2025.

- (e) *Commission frequently asked questions ("**FAQs**") on the implementation of the EU taxonomy for sustainable economic activities*

On 29 November 2024, the Commission [published](#) a draft Commission notice containing a set of FAQs to facilitate the implementation of the EU taxonomy for sustainable economic activities.

The [press release](#) provides that these FAQs provide technical explanations on various facets of the Taxonomy Regulation for sustainable economic activities, encompassing the application of general requirements, technical screening criteria for specific activities outlined in the Climate and Environmental Delegated Acts, and the generic 'do no significant harm' (DNSH) criteria.

The guidance also includes clarifications the reporting obligations for activities covered by the Climate Delegated Act and the Environmental Delegated Act and interoperability of the Taxonomy Regulation with the European Sustainability Reporting Standards (ESRS) and CSRD.

- (f) *Central Bank's SFDR follow-up workshop (This is a further update to section 3.18(d) of the quarterly report covering the fourth quarter of 2023)*

During the period, Irish Funds circulated a member note of the SFDR follow-up workshop attended by industry with the Central Bank. The aim of the workshop was to discuss SFDR disclosure matters following up on its November 2023 workshop, as well as the ESMA Guidelines on funds' names using ESG or sustainability related terms, and the ESMA CSA on sustainability-related disclosures and the integration of sustainability risks.

The members note summarises discussions on a number of Central Bank expectations for SFDR disclosures including in the following areas:

- sustainable investments disclosure and the requirement to disclose the underlying environmental and/or social sustainable investments commitments;
- Article 8 and 9 Funds: Asset allocation matching the total portfolio;
- Taxonomy disclosure expectations;
- consideration of minimum proportions;
- exclusion-only fund being categorised as an Article 8 fund; and
- Article 9(3) funds that are passively tracking a PAB or CTB.

The expectations set out in the workshop note are a precursor to an SFDR publication due to be issued by the Central Bank in 2025. In the meantime, the Central Bank expects the expectations noted should be considered by all funds and taken into account by new fund applications going forward. Where information is published, the Central Bank's expectation is that managers implement any changes to the pre-contractual disclosures necessary to comply with the publication at the next update to fund documentation where revised for another reason.

On the [ESMA CSA](#) on sustainability-related disclosures and the integration of sustainability (the "CSA"), the Central Bank outlined that ESMA will publish its CSA findings likely in Q1 2025. Following the ESMA publication, the Central Bank will publish its own findings in a report form instead of in the form of a Dear CEO letter. The Central Bank industry report will include observations identified under the parameters of the assessment scope, which includes sustainability risk monitoring, data limitations, SFDR regulatory guidance and fund disclosures. A number of risk mitigation programmes are proposed to address firm specific issues identified and requiring action. The Central Bank's industry report also intends to share insight on the background, methodology, and details of findings for the benefit of those firms who were not included in the assessment sample.

(g) *EU (Corporate Sustainability Reporting) Regulations 2024 (S.I. No. 336/2024) Update (This is a further update to section 4(e) of the quarterly report covering the third quarter of 2024)*

During the period, the Department of Enterprise, Trade & Employment published and updated a set of [FAQs](#) on interpretation of [S.I. No. 336/2024 - European Union \(Corporate Sustainability Reporting\) Regulations 2024](#), as amended (the "Irish CSRD Regulations"). The FAQs purport to provide additional clarification on topics including the scope of the upcoming second phase CSRD application for CSRD 'large' undertakings.

"What companies are included in the second wave of sustainability reporting, that is, for financial years commencing 1 January 2025?"

Large companies being companies satisfying at least 2 of 3 criteria – balance sheet greater than €25 million, turnover greater than €50 million and more than 250 employees."

* In line with the Irish transposition of the EU Accounting Directive (Directive 2013/34/EU) through the Companies (Accounting) Act 2017, companies deemed 'large' for the purpose of the Irish transposition of that Directive are also deemed 'large' for the purpose of CSRD reporting under SI 336/2024. See Section 280H of the 2014 Act, and the definition of "ineligible entities" under sections 275, 1116A, 1267A and 1400A of the 2014 Act.

The FAQs provide the Department's view on the interpretation of the Irish CSRD Regulations while containing a disclaimer that the FAQs do not constitute a legal interpretation. Accordingly, the FAQs should not be treated as legal advice.

(h) *Commission notices concerning sustainability reporting published in the OJ (This is a further update to section 4(b) of the quarterly report covering the third quarter of 2024)*

On 13 November 2024, the [Commission notice](#) containing a set of FAQs to provide guidance and clarification on sustainability reporting requirements introduced by the CSRD and certain provisions of SFDR was published in the OJ. The Commission published a draft of the notice in August 2024.

On 8 November 2024, the [Commission notice](#) on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act ((EU) 2021/2178) made under Article 8 of the EU Taxonomy Regulation ((EU) 2020/852) on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets was published in the OJ. The Commission published a draft of the notice in December 2023.

The replies to the FAQs in the notice clarify the rules in the applicable legislation. They do not introduce any additional requirements and are intended to help financial undertakings implement the legislation.

(i) *Platform report on investing for transition benchmarks ("ITB")*

On 19 December 2024, the Platform published a [report](#) on ITB. The report proposes two voluntary benchmark labels (investing for transition benchmarks, with and without exclusions) to highlight the pivotal role the [taxonomy](#) can play in shaping [climate and environmental benchmarks](#) as well as in transition finance.

The ITB are inspired by the success of PAB and the success in the growth of taxonomy-aligned capital expenditures.

(j) *ESAs climate scenario analysis*

On 19 November 2024, ESAs published its [report](#) with the results of its one-off "Fit-For-55" climate scenario analysis. The Commission had invited the ESAs and the ECB to assess the impact on the EU banking, investment fund, occupational pension fund and insurance sectors of three transition scenarios incorporating the implementation of the Fit-for-55 package, as well as the potential for contagion and amplification effects across the financial system. Under the scenarios examined, the report indicates transition risks alone are unlikely to threaten financial stability. However, when transition risks are combined with macroeconomic shocks, they can increase losses for financial institutions and may lead to disruptions.

The [press release](#) notes that report calls for a coordinated policy approach to financing the green transition and the need for financial institutions to integrate climate risks into their risk management in a comprehensive and timely manner.

(k) *ESAs 2024 joint report on principal adverse impacts ("PAI") disclosures under SFDR (This is a further update to section 4.11(a) of the quarterly report covering the final quarter of 2023)*

On 30 October 2024, the ESAs published their third annual [report on disclosures of principal adverse impacts under SFDR](#) ("**2024 Report**").

This is the ESAs' third annual report to the Commission on PAI disclosures, which has been produced under Article 18 of the SFDR. PAI disclosures aim at showing the negative impact of financial institutions' investments on the environment and people and the actions taken by FMPs to mitigate them. The report refers to PAI disclosures published by 30 June 2023, (reference period from 1 January 2022 to 31 December 2022) and assesses entity and product-level PAI disclosures. The ESAs have broadened the scope of the 2024 Report to also cover the disclosures made under the SFDR Delegated Regulation template, available for the first time since 30 June 2023.

Overall, the ESAs noted positive progress on several elements compared to previous years, in particular, improvements on the location of the PAI disclosures (which are becoming more accessible to retail investors), and on the level and quality of the information disclosed. Also, significant improvements were identified in product PAI disclosures, although the share of products disclosing PAI information remains quite low. However, it views the level of compliance with the SFDR provisions (at both level 1 and level 2) is not yet fully satisfactory. Additional efforts are still needed to achieve full compliance.

The 2024 Report also includes an overview (**Annex I**) of recommended good and bad/non-compliant practices including on the location, clarity, complexity of the disclosures based on a survey of NCAs. The report includes recommendations to NCAs to ensure convergent supervision of FMPs' practices. It also includes recommendations to the Commission for its comprehensive assessment of the SFDR.

(l) *ESMA sustainable finance implementation timeline*

On 30 October 2024, ESMA published its most recent sustainable finance [implementation timeline](#).

The current implementation timeline reflects the possibility of material relating to the Commission's review of the SFDR being published in mid-2025.

In addition, the implementation timeline covers forthcoming developments relating to SFDR, Taxonomy, Benchmark Regulation and on European Green Bonds Regulation.

(m) *ESMA risk analysis article: "Assessing portfolio exposures to climate physical risks"*

On 9 October 2024, ESMA published a [TRV article](#) on assessing portfolio exposures to climate physical risks. The article notes that within the financial sector, a key challenge is the management of the indirect exposure to climate physical risks through financial assets. While investment funds' portfolio vulnerabilities to physical risks appear limited given their ability to rebalance portfolios quickly and the short-term nature of their liabilities, some funds may still be exposed to climate physical risks.

The accuracy of these assessments is subject to various limitations and their interpretation requires context to understanding the implications of choices made with respect to measurements, aggregation methodology and time horizon. This article illustrates how two different assessment methodologies and data sources provide insights on climate physical risk exposures, based on an analysis of EU investment fund portfolio holdings. As expected, funds domiciled in northern Europe tend to be more exposed to companies subject to flood risks, while those domiciled in southern Europe are relatively more exposed to the consequences of water supply-and-demand imbalances.

Going forward, ESMA will continue to monitor EU fund exposures to climate physical risks by including some of these indicators into its regular risk assessments.

(n) *ESMA reports on carbon markets*

On 8 October 2024, ESMA issued two publications on carbon markets.

Firstly, its [statement](#) 'Clearing the smog: Accounting for Carbon Allowances in Financial Statements' aims at improving financial reporting for issuers engaging in carbon allowance programmes. The statement is focused on accounting approaches and provides disclosure recommendations to enhance usefulness for users by promoting transparency of the information included in the financial statements with respect to carbon pricing programmes.

The statement also calls for consistency between the assumptions used in estimations and measurements related to climate matters and the information provided across the different sections of the annual financial report and with respect to carbon allowances in the financial statements with the disclosures required under the ESRS.

ESMA's [annual report](#) on EU carbon markets also provides details and insights into the functioning of the EU Emissions Trading System market and the report will be produced annually.

(o) *Taskforce on Nature-related Financial Disclosures ("TNFD") draft guidance on nature transition planning (This is a further update to section 4(k) of the quarterly report covering the third quarter of 2024)*

On 27 October 2024, the TNFD published a [discussion paper](#) setting out draft guidance for companies and financial institutions on developing and disclosing a nature transition plan.

The draft guidance includes:

- a definition of a nature transition plan and an overview of related initiatives;
- guidance on what a nature transition plan should include, how it should be presented and how it should be disclosed; and
- areas of further work needed on development and assessment of nature transition plans.

A nature transition plan lays out an organisation's goals, targets, actions, accountability mechanisms and intended resources to respond and contribute to the transition goals of the Kunming-Montreal Global Biodiversity Framework.

The discussion paper is open for feedback until 1 February 2025 from corporates, financial institutions and other interested stakeholders. Based on the feedback received through the consultation, and insights gained through potential pilot testing, the TNFD will develop guidance on nature transition plans that will be published in 2025. The TNFD also encourages businesses and financial institutions to pilot test the draft guidance set out in this discussion paper.

(p) *IOSCO final report on good practices in voluntary carbon markets*

On 14 November 2024, IOSCO published its [final report](#) on good practices in voluntary carbon markets ("VCMs"). VCMs are markets where entities buy carbon credits for voluntary use (for example, to offset carbon emissions and support a claim about their climate performance, or otherwise finance mitigation activities with traceable results).

The report aims to promote the financial integrity and orderly functioning of the VCMs and sets out 21 good practices, which cover regulatory frameworks, primary market issuance, secondary market trading (including market functioning and transparency, governance and risk management, and market abuse), and use, disclosure and retirement of carbon credits.

(q) *IOSCO report on transition plans disclosures*

On 13 November 2024, IOSCO published a [report](#) developed by its Sustainable Finance Taskforce on how transition plans disclosures can support the objectives of investor protection and market integrity.

The Report highlights the five most useful components of transition plans disclosures that were suggested by market participants in IOSCO's outreach:

- ambition and targets;
- decarbonisation levers and action plan;
- governance and oversight;
- financial resources and human capital; and
- financial implications.

On consistency and comparability, stakeholders suggested additional guidance on transition plans disclosures could clarify disclosure expectations and lead towards more standardised information. IOSCO also encourages relevant standard setters to consider providing markers on what would constitute forward-looking information, in accordance with their standards and governance processes.

(r) *ESA report on implementing technical standards (ITS) regarding certain tasks of the collection bodies and functionalities of the European Single Access Point ("ESAP") (This is a further update to section 3.1(a) of the quarterly report covering the third quarter of 2024)*

On 29 October 2024, the ESAs published the [Final Report](#) on the draft implementing technical standards (ITS) regarding certain tasks of the collection bodies and functionalities of the ESAP.

The ESAP will facilitate access to publicly available information relevant to financial services, capital markets and sustainability. The ESAP is expected to start collecting information in July 2026, while the publication of the information will start no later than July 2027. The Final Report has been sent to the Commission for adoption.