

# Legal Update

## Central Bank Dear Chair Letter on Asset Valuation

The Central Bank of Ireland (the “Central Bank”) issued a letter (the “Letter”) on 14<sup>th</sup> December 2023 to fund management companies as a follow up to the Common Supervisory Action (“CSA”) of the European Securities and Markets Authority (“ESMA”) in relation to asset valuation. This Letter was designed to highlight the main findings of the review of related practices carried out by the Central Bank as part of this CSA and to identify the key actions to be taken by all firms to mitigate the issues identified.

### Scope

The Central Bank was required to investigate as part of the CSA whether fund management companies:

- complied with their regulatory obligations under UCITS or the AIFMD respectively;
- Adhered to valuation principles and methodologies that reflected a true and fair view of asset values under normal and stressed market conditions in accordance with applicable rules; and
- How these policies worked during Covid.

### Findings

The key findings of the Central Bank as a result of this exercise were:

- Some firms used standardised group policies which did not reflect local Irish requirements and could accordingly lead to inaccuracies at the Irish level;
- Some firms lacked or had inadequate formal asset valuation error procedures, including escalation measures to be applied, which could lead to unfair treatment of investors following pricing errors;
- Some firms had insufficiently detailed policies and procedures to carry out the valuation process at an operational level and related responsibilities;
- Limited evidence of periodic reviews of policies and procedures with a clear

governance structure and independent review to avoid segregation of roles.

### Actions Required

The Central Bank is requiring the following actions on foot of the Letter:

- All firms must have documented, comprehensive and entity specific asset valuations policies and procedures outlining the operational roles and responsibilities for all relevant parties;
- Relevant policies should be subject to review at least annually by senior management with appropriate knowledge or more regularly if warranted to ensure they are fit to purpose, there should be consistent application across firms of the policies.
- Firms should have a formalised and comprehensive errors procedure in place to ensure remedial action is implemented if errors occur and this should also be subject to annual review.
- All firms need to review their relevant framework to determine it is appropriate and consider any steps to take to ensure compliance. this should be completed by the end of Q2 2024.

### How Clerkin Lynch can help

The asset management team at Clerkin Lynch can assist with reviews and drafting of policies relating to valuations or in reviewing and revising these to ensure compliance with the letter.



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