

ESMA Researching European Fund Costs

The European Securities and Markets Authority (“ESMA”), the lead European financial regulatory and supervisory authority, has announced the launch of a data collection exercise together with the national competent authorities (“NCAs”) across the EU, including the Central Bank of Ireland (the “Central Bank”) on costs linked to investments in AIFs and UCITS. This exercise follows their common supervisory action (“CSA”) and related briefing papers on “undue” costs and charges being imposed on investors in European funds and is aimed at facilitating greater transparency on related issues.

Background

The costs and charges payable on European funds were identified as a significant impediment to the development of the investment industry in Europe at a retail level in a 2019 statistical report by ESMA. Since then it has launched various initiatives to focus on the area in a bid to increase competitiveness of all European funds. These included a briefing on its interpretation of “undue” costs and charges for both UCITS and AIFs in 2020 and a CSA on the topic in 2021. In Ireland the Central Bank followed up on this with a Dear CEO letter in 2023 outlining its expectations in this regard, including related policies and procedures regarding costs and charges.

Data Collection Project

This data collection initiative follows the Level 1 mandate received from the European Commission under the UCITS/AIFMD review. Under this project, ESMA has designed a two-stage data collection survey 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* (e.g. investment firms and independent financial advisors) will show the fees paid directly by investors to distributors.

This initiative will shed light on pricing practices leading to greater transparency and highlighting outliers, potentially including “undue” costs and charges. Enforcement actions may follow.

How Clerkin Lynch Can Help

Clerkin Lynch’s regulatory team can assist with the preparation of policies and procedures to ensure compliance with the regulatory requirements pertaining to costs and charges or provide an independent review of these as outside counsel. Contact us for more information.



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