



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Notice of Intention:

**Investment by UCITS and Retail Investor AIFs
in UK Investment Funds;**

**Counterparties to OTC derivative
instruments entered into by UCITS and Retail
Investor AIFs**

7 March 2019

Notice of Intention
Investment by UCITS and Retail Investor AIFs in UK investment funds
Counterparties to OTC derivative instruments entered into by UCITS and Retail Investor AIFs

In accordance with Regulation 68 of the Irish UCITS Regulations¹, UCITS may invest in alternative investment funds (AIFs) provided, inter alia, that the AIFs are authorised under laws which provide that they are subject to supervision considered by the Central Bank of Ireland (Central Bank) to be equivalent to that laid down in Community law.

In accordance with Chapter 1 of the Central Bank's AIF Rulebook (the AIF Rulebook), Retail Investor AIFs are permitted to invest in regulated investment funds, defined as an investment fund which is either a category 1 investment fund or a category 2 investment fund.

Regulation 8(3) of the Central Bank UCITS Regulations² prohibits UCITS from entering into an OTC derivative unless the derivative counterparty falls within certain categories. A similar prohibition applies to Retail Investor AIFs from Chapter 1 of the AIF Rulebook.³ Non-EEA investment firms are not included in those categories.

On 30 March 2019, the United Kingdom will become a third country. The Central Bank recognises that there may be considerable disruption in the event that the United Kingdom withdraws from the European Union without ratifying a withdrawal agreement.

Should such an eventuality arise:

- (i) the Central Bank will consider whether UK UCITS, which at that point will become UK AIFs, should be identified in Central Bank guidance as a category of investment fund in which UCITS and Retail Investor AIFs may invest. For the period while this is under consideration, the Central Bank does not propose adopting a default position which would treat the UK AIFs as ineligible. Nevertheless in the case of UCITS, any investment in UK AIFs must fall within with the aggregate limit of 30% for investments in all AIFs⁴. Such determination may be changed, including if circumstances change, and
- (ii) the Central Bank will also consider whether UK investment firms, currently authorised under the European Union Markets in Financial Instruments Directive (MiFID), should be a category of eligible financial derivative counterparty for UCITS and Retail Investors AIFs. For the period while this is under consideration, the Central Bank does not propose adopting a default position

¹ S.I. No 352 of 2011 European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 as amended

² S.I. No 420 of 2015 Central Bank (Supervision and enforcement) Act 2013 (Section 48(1))(Undertakings for Collective Investment in Transferable Securities) Regulations 2015 as amended

³ Chapter 1, Part I, Section 1: Paragraph 3, section iv of the AIF Rulebook

⁴ Regulation 73(2) of the Irish UCITS Regulations

which would treat UK investment firms as ineligible. Such determination may be changed, including if circumstances change.

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