Central Bank of Ireland Introduces Increased Flexibility for Exchange Traded Funds

The Central Bank of Ireland ("**Central Bank**") has announced that investment funds can establish both listed and unlisted shares classes within a single fund structure, subject to disclosure requirements, and that it will permit different dealing times for hedged and unhedged share classes within the same exchange traded fund ("**ETF**").

This welcome development arises from the Central Bank's review of the regulation of ETFs, which has to date involved its May 2017 discussion paper on ETFs ("**Discussion Paper**") and hosting an ETFs conference attended by a number of international regulators in Dublin last November. Mindful of Ireland's status as the largest European centre for ETFs and the second largest ETF domicile globally, the Central Bank launched the initiative in order to lead an international exchange of views on the regulation of ETFs.

The lengthy and considered feedback statement, running to over 60 pages, is not, for the most part, prescriptive or conclusive in its findings but rather is a continuation of the discussion on ETFs and reflects the evolution of the Central Bank's views on the regulation on ETFs arising from responses to the Discussion Paper and the discussions at the November conference.

In addition to highlighting the increased flexibility in ETF share class arrangements, the Central Bank has indicated that there will be no change in the requirement to have daily portfolio disclosure at this time. This is despite the fact that a majority of respondents were strongly of the view that portfolio disclosure was not an essential pre-requisite for effective pricing. The Central Bank acknowledges that a move away from its current daily disclosure policy could result in additional investor choice in terms of access to active ETFs but is of the view that this reason alone does not justify amending the current standard of full portfolio disclosure at present.

It is noted that ETFs remain a subject of discussion in a number of international regulatory forums, including the International Organisation of Securities Commissions ("**IOSCO**"), the US Securities and Exchange Commission and the Financial Stability Board and therefore it seems that the Central Bank is of the view that it may be premature to implement policy changes on the issue of portfolio transparency, among other issues, at this stage. The Central Bank will use the feedback it has received in relation to this issue and the other matters addressed in the Discussion Paper to inform its approach in the ongoing debates in European and international policy forums.

In relation to its revised policy of permitting listed and unlisted shares classes within the same investment fund, the Central Bank has stated that it will develop guidance on the appropriate disclosure requirements to apply for both types of classes.

Comment

The publication of the feedback statement is representative of the Central Bank's continued willingness to engage with industry and stakeholders on this important topic and we welcome the Central Bank's recognition of the international dimension to the regulation of ETFs.

Following a lengthy and detailed review, it is noteworthy that the overall tone of the Central Bank's findings seems to acknowledge that the ETF product works well and that the Central Bank does not consider that ETFs represent a threat to stability or a systemic risk which currently requires any prescriptive regulatory action.

The Central Bank's feedback statement is available here. Our previous update relating to the Central Bank's discussion paper is available here.

Please get in touch with your usual Asset Management and Investment Funds Department contact or any of the contacts listed in this publication should you require further information in relation to the material referred to in this update.

Full details of the Asset Management and Investment Funds Department, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team, can be accessed at www.matheson.com.

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