KB Associates
Offshore Fund Consulting

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CP 119 – Review of the Regulatory Framework for Irish UCITS

Introduction

On 29 March 2018, the Central Bank of Ireland ("Central Bank") published a consultation paper (CP 119) which contains proposals for amendments to the Central Bank UCITS Regulations ("the UCITS Regulations"). These regulations form the basis of the Irish regulatory framework for UCITS funds. They were originally enacted in 2015 and have since been amended twice.

The consultation is open for stakeholders to submit their responses until 29 June 2018.

The Proposed Amendments in CP119

The amendments relate to a number of areas including:

Share Class Hedging

CP119 seeks to introduce amendments to reflect the opinion on "Share Classes of UCITS" issued by ESMA in January 2017. The proposed amendments include:

- A requirement that under-hedged positions should not fall below 95% of the NAV of the share class
- A requirement that stress testing be conducted at the share class level and the results be provided to the Central Bank
- A requirement that administrative costs for the establishment of a share class are to be borne solely by the relevant share class
- A requirement that counterparty risk should be assessed at the level of the hedged share class.

UCITS Performance Fees

A new regulation has been proposed which sets out disclosure obligations in the prospectus relating to performance fees. In addition, a new restriction on paying a performance fee more frequently than on an annual basis has been proposed. Under the existing regime performance fees are paid as frequently as quarterly.

Management Company/Depositary Unaudited Accounts

CP119 proposes that management companies and depositaries should prepare a full 12 month set of unaudited accounts, instead of a second set of half-yearly accounts. CP119 also proposes that these accounts should be submitted within 1 month of the period end, instead of the previous requirement of 2 months after period end.

CP86 Requirements

CP119 formalises the CP86 requirements in the UCITS Regulations relating to establishing and monitoring an e-mail address for Central Bank correspondence and ensuring that records are kept in a format that are easily retrievable.

Money Market Fund Regulation ("MMFR")

The UCITS Regulations will be amended to take into account the MMFR which applies to all money market funds and comes into effect on 20 July 2018. Existing money market funds have a transitional period until 21 January 2019 to comply. In summary, MMFR states that money market money funds may be established as:

- A Public Debt CNAV MMF (investing 99.5% in government backed securities)
- A Low Volatility NAV MMF

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- A Variable NAV MMF

MMFR also introduces new requirements in relation to a number of areas including eligible assets, portfolio diversification, liquidity, risk management and valuation.

Depositary Requirements (UCITS V)

The new UCITS Regulations will take into account UCITS V requirements in relation to areas such as depositary obligations and depositary agreement requirements.

Temporary Suspension of Redemptions – Notifications

UCITS funds are required to notify the Central Bank when they temporarily suspend redemptions. The proposal seeks to include a requirement to notify the Central Bank immediately when the temporary suspension of redemptions has been lifted. It also proposes to include a requirement to notify the Central Bank within 21 days if the suspension remains in place.

KB Associates' Services

KB Associates offers a range of services to investment funds and management companies including:

- The provision of UCITS/AIF management company services.
- The provision of designated persons to perform UCITS business plan and AIFMD programme of activity managerial functions.
- The provision of UCITS/AIF operational support.

If you would like to discuss any issues raised in this article or related to KB Associates' services in general, please feel free to contact Mike Kirby (+353 1 667 1980), Peter Northcott (+44 203 170 8813) or Mike Parton (+1 345 946 4224).

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