

Central Bank issues updated AIFMD Q&A

The Central Bank of Ireland (the “Central Bank”) issued an updated version of its Questions and Answers (“Q&A”) document pertaining to the AIFMD on 7th March 2025. This new edition – the fiftieth – contains three new Q&As which clarify the rules regarding the practical application of the general prohibition on Irish regulated alternative Investment Funds (“AIFs”) acting as guarantors for third parties.

Background

The Central Bank issues a series of Q&As on various topics to assist market participants and legal practitioners to understand its interpretation of various aspects of financial services law, including the AIFMD, UCITS, MiFID etc. While it is published by them in order to reduce uncertainty, it does not have the force of legislation and the Central Bank states that it reserves the right to alter its approach to any matter covered in such Q&As at any time

New Requirements

The Fiftieth Edition clarifies the application of the general prohibition on AIFs acting as guarantors for third parties as set out in the AIF Rulebook.

Q&A ID 1160 confirms that guarantees are permissible in respect of investments and/or intermediate vehicles for such investments in which a QIAIF has a direct or indirect economic interest - subject to several safeguards and investor disclosures. These include that the arrangements are determined by the AIFM to be in the best interests of both the fund and its investors and are ancillary to its predominant investment strategy; that the depositary confirms that the proposed

transaction is at arm’s length and in the best interest of investors; adequate prospectus disclosures; no increase in the liability of investors and compliance with other relevant laws.

Q&A ID 1161 confirms that the definition of a financial institution in the AIF Rulebook is also that set out in the revised AIFMD loan origination rules (which cross refer to EU Directive 2009/138/EC (Solvency II) that is transposed into Irish law through the European Union (Insurance and Reinsurance) Regulations 2015).

Q&A ID 1162 clarifies that the prohibition on lending to persons intending to invest in equities, commodities or other traded investments does not prevent lending to a borrower with the intention of acquiring a controlling interest a relevant target company.

How Clerkin Lynch Can Help

Clerkin Lynch’s asset management team can advise on compliance with any of the topics addressed in the Q&As of the Central Bank, including in relation to the AIFMD generally and loan funds in particular.

Contact us for more information.



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