



Matheson

Central Bank of Ireland Clarifies Fund Authorisation Procedures

June 2022

The Central Bank of Ireland (“**Central Bank**”) has **published** updates to its website including guidance relating to fund authorisation processes and procedures (“**Guidance**”). The publication of the Guidance forms part of the Central Bank’s broader project to review fund authorisation processes, which will be completed during the course of 2022.

Approval of Non-EU Investment Managers

The Guidance amends the process for the approval of UCITS and AIF investment managers and investment advisers by setting out a new online process for the clearance of non-EU based investment managers. The new process now involves:

- submission of applicant details (as required under the pre-existing process) via the Central Bank’s online reporting system (ONR);
- an attestation from the fund manager as to the due diligence that has been carried out on the application, including, at a minimum:
 - (a) confirmation of the regulatory status and background of the investment manager to ensure they are appropriately regulated and supervised and are not subject to legal proceedings;
 - (b) confirmation that a review of the financial information has been completed to ensure the investment manager has the required level of share capital and has no contingent liabilities;
 - (c) confirmation that a review of the resources, systems and procedures of the investment manager have been completed to ensure that they are sufficient to adequately carry out all the functions delegated to it; and
 - (d) a confirmation that they are in a position to effectively monitor the investment manager’s compliance with the relevant fund documentation and all regulatory and legislative requirements

in this regard.

Where the management company cannot provide the confirmations at (a) and (b) above, but is of the view that this does not affect the suitability of or the performance of the investment management activities by the investment manager, such applications will be considered on a case by case basis as part of the a more detailed review process. The application should include a full explanation as to why the relevant confirmation(s) cannot be provided.

Amendments to Pre-submission Process

Irish qualifying investor alternative investment funds (“**QIAIFs**”) can avail of a fast-track authorisation process allowing authorisation in one day, subject only to various advance approvals of the relevant parties to the fund and the certifications to be given in respect of compliance with the Central Bank’s requirements. In recent years, the Central Bank has taken the view that, where a proposed QIAIF intends to hold uncommon asset types or has unusual features, authorisation in one day may not be possible, as it will be necessary to file a pre-submission with the Central Bank. The Central Bank had previously required pre-submissions with respect of funds with high levels of leverage, property funds, life settlement funds and loan originating funds.

The Central Bank has now confirmed in new website [guidance](#) that a pre-submission will only be required with respect to:

- QIAIFs proposing to invest in Irish property assets; and
- QIAIFs proposing to invest in cryptoassets.

Pre-submission Requirements for QIAIFs investing into Irish Property Assets

QIAIFs which propose to invest into Irish property assets must submit the following to the Central Bank:

- copies of prospectus / supplements;
- a model portfolio template;
- details of loan-to-value and leverage limits and the rationale for such limits;
- information on the liquidity status of the QIAIF and the redemption provisions that will apply; and
- an indication of the expected target market.

The Central Bank has indicated that this is a non-exhaustive list.

Pre-submission Requirements for QIAIFs investing in Cryptoassets

QIAIFs which propose to invest into cryptoassets must submit the following to the Central Bank:

- information in relation to how the cryptoassets are capable of being appropriately risk managed, including liquidity risk; credit risk; market risk; operational risk (including fraud and cyber risks); money laundering / terrorist financing risk; and legal and reputation risks; and
- in the case of direct investment in cryptoassets, the submission should include details from the proposed depository, demonstrating how it is satisfied that it can provide for the safe-keeping of the assets of the QIAIF.

The Central Bank has indicated that this is a non-exhaustive list.

QIAIF which propose to invest no more than 10% of its net asset value into cash-settled Bitcoin futures traded on the Chicago Mercantile Exchange, no pre-submission is required, provided that:

- the cover letter accompanying the QIAIF application refers to the inclusion of crypto-asset exposure; and
- in the case of an application for post-authorisation amendment, shareholder approval is obtained for the revision to the QIAIF's investment strategy to introduce exposure to cryptoassets. This must also be set out in the cover letter.

The Central Bank will continue to monitor the type of QIAIF that may be subject to pre-submission and may add to or remove QIAIFs from the list of funds requiring pre-submissions over time. The Central Bank has not committed to a timeframe for the consideration of pre-submissions but it expects this process to operate with increased efficiency in light of the reduction in the number of instances where a pre-submission is required.

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.



Tara Doyle

Partner

T +353 1 232 2221

E tara.doyle@matheson.com



Michael Jackson

Managing Partner

T +353 1 232 2000

E michael.jackson@matheson.com



Dualta Counihan

Partner

T +353 1 232 2451

E dualta.counihan@matheson.com



Shay Lydon

Partner

T +353 1 232 2735

E shay.lydon@matheson.com



Philip Lovegrove

Partner

T +353 1 232 2538

E philip.lovegrove@matheson.com



Liam Collins

Partner

T +353 1 232 2195

E liam.collins@matheson.com



Elizabeth Grace

Partner

T +353 1 232 2104

E elizabeth.grace@matheson.com



Oisín McClenaghan

Partner

T +353 1 232 2227

E oisín.mcclenaghan@matheson.com



Michelle Ridge

Partner

T +353 1 232 2758

E michelle.ridge@matheson.com



Barry O'Connor

Partner

T +353 1 232 2488

E barry.oconnor@matheson.com



Donal O'Byrne

Partner

T +353 1 232 2057

E donal.o'byrne@matheson.com



Catriona Cole

Partner

T +353 1 232 2458

E catriona.cole@matheson.com



Anthony Gaskin

Partner

T +353 1 232 3043

E anthony.gaskin@matheson.com



Brónagh Maher

Professional Support Lawyer

T +353 1 232 3757

E bronagh.maher@matheson.com

This material is provided for general information purposes only and does not purport to cover every aspect of the themes and subject matter discussed, nor is it intended to provide, and does not constitute, legal or any other advice on any particular matter. The information in this document is provided subject to the Legal Terms and Liability Disclaimer contained on the Matheson website.

Copyright © Matheson

Matheson

This Matheson LLP (“Matheson”) material contains general information about Irish law and about our legal services. This material is not intended to provide, and does not constitute or comprise, legal advice on any particular matter and is provided for general information purposes only. You should not act or refrain from acting on the basis of any information contained in this material, without seeking appropriate legal or other professional advice.

This document is confidential and commercially sensitive and is submitted to you on a confidential basis, solely to facilitate the decision whether or not to appoint Matheson to provide legal services to you. It is not to be copied, referred to or disclosed, in whole or part (save for your own internal purposes in connection with the consideration of this submission), without our prior written consent. Matheson retains ownership of the document and all rights in it, including ownership of copyright.

DUBLIN

70 Sir John Rogerson’s Quay,
Dublin 2
Ireland

T: +353 1 232 2000
E: dublin@matheson.com

CORK

Penrose One,
Renrose Dock,
Cork, T23KW81

T: +353 21 465 8200
E: cork@matheson.com

LONDON

1 Love Lane
London EC2N 7JN
England

T: +44 20 7614 5670
E: london@matheson.com

NEW YORK

200 Park Avenue
New York, NY 10166
United States

T: +1 646 354 6582
E: newyork@matheson.com

PALO ALTO

530 Lytton Avenue
Palo Alto, CA 94301
United States

T: +1 650 617 3351
E: paloalto@matheson.com

SAN FRANCISCO

156 2nd Street
San Francisco CA 94105
United States

T: +1 650 617 3351
E: sf@matheson.com