



FINANCIAL SERVICES

Central Bank Consultation on the Treatment, Correction and Redress of Errors in Investment Funds

by **Trevor Dolan**

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Consultation Paper 130: Treatment, Correction and Redress of Investment Fund Errors (CP130).

The Central Bank of Ireland has opened a consultation on a regulatory framework that establishes rules and guidance in relation to the treatment, correction and redress of errors in investment funds.

The Central Bank considers that the guiding principle for any such framework should be that where an error occurs, the fund and/or the investor must be appropriately rectified. The concept of 'appropriately rectified' will be applied broadly to include reporting errors, notification to investors and the payment of redress obligations. Where errors are appropriately and effectively dealt with, the fund or investor is restored to the position that they would have been in had the relevant issue not arisen.

The Central Bank places the onus on Fund Management Companies for ensuring that an error is appropriately rectified, noting that the depositary has a role in ensuring that this is the case.

The Central Bank is consulting on the implementation of a new regulatory framework which comprises of the following distinct components:

- Treatment: how errors should be treated when they arise, including when such errors should be considered as material.
- Correction: how errors should be corrected, including what reporting and notification obligations should apply.
- Redress: how the fund and/or investors should be appropriately rectified following an error.

The proposed framework differentiates the way in which an error should be appropriately rectified depending on the type of error concerned.

Four error types are defined under the framework:

1. A NAV error: an error in the calculation of the Net Asset Value (NAV).
2. An Investment Breach Error: an error relating to the investments of a fund and non-compliance with the applicable investment restrictions.
3. A Fee Error: an error related to the overpayment of a fee.
4. A Control Breach Error: an error which does not fall into the above three categories.

It is proposed that the regulatory framework will apply to Fund Management Companies acting for Irish authorised Undertakings for Collective Investment in Transferable Securities (UCITS) or Alternative Investment Funds (AIFs) and Irish Fund Management Companies (which may be acting for non-Irish authorised funds). Where an Irish Fund Management Company manages non-Irish authorised funds, the regulatory framework will apply without prejudice to requirements and guidance in another relevant jurisdiction.

The proposed framework has been informed by supervisory experiences, the approaches of peer regulatory authorities, IOSCO principles and engagements with external stakeholders with a view to ensuring the best interests of investors are safeguarded. The framework sets out the responsibilities and reporting obligations that should apply to Fund Management Companies and to depositaries with respect to errors.

The Consultation Paper is available [here](#).

About the Author



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