



FINANCIAL SERVICES

The Central Bank UCITS Regulations

by **David Williams**

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Consultation, Feedback and Amendment

The Central Bank of Ireland has published a Feedback Statement on its Consultation Paper CP 105 - *Consultation on amendments to the Central Bank UCITS Regulations*.

CP 105 relates to proposed amendments to the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015 (Central Bank UCITS Regulations).

CP 105 was published in June 2016 and the [Feedback Statement](#) was published in January 2017.

The Feedback Statement includes:

1. Feedback on amendments to the Central Bank UCITS Regulations consequential to the implementation of Directive 2014/91/EU (UCITS V).
2. Feedback on technical amendments to the Central Bank UCITS Regulations, including the correction of typographical errors.

The Central Bank asked specific questions in CP 105, which respondents were invited to address. The Feedback Statement summarises the responses received to each question along with the Central Bank's comments and decisions.

Some of the more notable responses from the Central Bank are discussed below.

Proposals to include the Central Bank's requirements in respect of establishing subsidiaries

The Central Bank confirmed that guidance will be published on its website in relation to applying to the Central Bank for approval to establish a subsidiary.

The Central Bank confirmed that requiring disclosure of the names of subsidiaries in the prospectus may not be practical and confirmed that the amended regulations will contain a revised provision requiring disclosure of the names of subsidiaries in the UCITS annual report instead of the prospectus.

Depositary to also hold assets of subsidiary

The Central Bank confirmed that the new Regulation 114A of the Central Bank UCITS Regulations, relating to depositary obligations and restrictions, will be amended to provide that if a UCITS establishes a subsidiary, the assets of the subsidiary must also be held by the depositary. In addition, the depositary's safekeeping and cash monitoring obligations will apply to the subsidiary.

Securities Financing Transactions Regulations

A respondent queried whether the Central Bank intended to amend Chapter 4, Efficient Portfolio Management, of the Central Bank UCITS Regulations to reflect the requirements of the Securities Financing Transactions Regulations (SFTR).

The Central Bank responded by stating that SFTR is a European Union regulation and that it has direct effect under Irish law. The Central Bank UCITS Regulations only contain those rules that the Central Bank is imposing on UCITS, UCITS management companies and depositaries. The Central Bank clarified that it does not repeat legislative requirements and will therefore not be amending the Central Bank UCITS Regulations in respect of the requirements of SFTR.

Payment of redemption proceeds

A respondent suggested an amendment to Regulation 33(2) of the Central Bank UCITS Regulations to indicate that a responsible person shall 'normally' pay redemption proceeds within ten business days. The purpose of this would be to reflect cases where payment within ten business days may not be practicable, for example, where the investor has not complied with anti-money laundering requirements. The respondent suggested that the proposal to include 'normally' was consistent with section 2.14.15 of the Central Bank's UCITS application form.

The Central Bank responded by stating that the requirement in section 2.14.15 of the Central Bank's application form is clear. It states that the period between the dealing deadline for redemption requests and the payment of redemption proceeds by the UCITS to investors should reflect the frequency of dealing, whether daily or weekly, and this period must be within ten business days of the relevant dealing deadline.

Next steps

The Central Bank will be amending the Central Bank UCITS Regulations in order to implement the changes discussed in the Feedback Statement. Further amendments will also be included to encompass the changes that resulted from the consultation process on fund management company effectiveness (CP 86).

It is expected that the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2017 will be published in the coming weeks.

If you would like to discuss any matters relating to compliance with the requirements of the Central Bank UCITS Regulations, please contact any member of the Financial Services Group.

About the Authors



David Williams
Consultant

David advises on all aspects of financial services law and regulation.
T: +353 1 637 1542 E: dwilliams@lkshields.ie