

# ESMA Guidance on Funds' Marketing Communications

From 2 February 2022, Irish authorised UCITS management companies and AIFMs ("Managers") must ensure that marketing communications published in respect of UCITS and alternative investment funds comply with the ESMA Guidelines on Marketing Communications under the Regulation on Cross-Border Distribution of Funds<sup>1</sup> ("Guidelines").

In a Notice of Intention<sup>2</sup> published on 1 October 2021, the Central Bank of Ireland confirmed it will, in due course, consult on the incorporation of a requirement into the Central Bank UCITS Regulations<sup>3</sup> and AIF Rulebook<sup>4</sup> but in the interim it expects full compliance with the Guidelines from 2 February 2022.

In general terms, the Guidelines aim at aligning the marketing communications regime applicable to Managers with the regime currently applicable to MiFID firms under Directive 2014/65/EU ("MiFID II"). That said, it is worth noting that in some instances, the Guidelines go beyond the MiFID II requirements (e.g. display of past performance for UCITS) and Managers should accordingly conduct a review of marketing communications prior to 2 February 2022.

For further information on the Guidelines and other aspects of the EU regime on the cross-border distribution of investment funds, please see our previous client update<sup>5</sup>.

## Further Information

For more information, please liaise with your usual Maples Group contact or any of the persons listed below.

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[https://www.esma.europa.eu/sites/default/files/library/esma34-45-1272\\_guidelines\\_on\\_marketing\\_communications.pdf](https://www.esma.europa.eu/sites/default/files/library/esma34-45-1272_guidelines_on_marketing_communications.pdf)

<sup>2</sup> <https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/industry-communications/notice-of-intention-application-of-esma-guidelines-marketing-communications-under-the-regulation-on-cross-border-distribution-of-funds.pdf?sfvrsn=4>

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<https://www.irishstatutebook.ie/eli/2019/si/230/made/en/print?q=230>

<sup>4</sup> <https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/aifs/guidance/aif-rulebook-march-2018.pdf?sfvrsn=6>

<sup>5</sup> <https://maples.com/en/knowledge-centre/2021/7/new-esma-guidelines-for-fund-marketing-communications>



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