



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Approval Process for UCITS Side-pocketing arrangement in relation to Russian, Belarusian and Ukrainian assets that are impacted by the Russian invasion into Ukraine and/or impacted by sanctions that have been imposed as a result of Russia's invasion of Ukraine

May 2022

Context

The Russian invasion of Ukraine has resulted in some securities with exposure to Russia, Ukraine and Belarus becoming illiquid or untradeable and consequently difficult to value accurately. On 16 May 2022, the European Securities and Markets Authority (ESMA) published a Public Statement on actions to manage the impact of the war in Ukraine on investment funds. The Central Bank recognises that due to the specific and exceptional market conditions brought about by the war in Ukraine, certain asset classes are subject to pronounced devaluation and / or their ability to trade has been wholly impaired.

Central Bank Approach

The Central Bank will permit, subject to conditions set out below, a UCITS to implement a side-pocket arrangement only for Russian, Belarusian and Ukrainian assets that are directly and/or indirectly impacted by the Russian invasion into Ukraine and/or impacted by sanctions that have been imposed as a result of Russia's invasion of Ukraine ("Affected Securities"). The Affected Securities have become illiquid or untradeable as a result of the Russian invasion of Ukraine and at this time, are difficult to value accurately. This arrangement may be implemented by way of establishment of a clone fund into which liquid assets may be transferred. The side pocketing of UCITS assets is only available in the context of Affected Securities and should not be interpreted as creating a precedent by the Central Bank for any other current or future situations.

A side-pocket by way of a new UCITS is established when liquid assets of an (original) UCITS are transferred into a newly authorised/approved clone UCITS. The Affected Securities which have become illiquid or difficult to value remain in the original UCITS. Shareholders in the newly established clone UCITS hold shares in that fund pro-rata to their holdings in the original UCITS. Investors in the original UCITS continue to have a pro-rata holding in the original UCITS. The original UCITS would be wound down over time with any realised value being paid out to shareholders.

An original UCITS may establish a side-pocket by way of a newly established clone UCITS provided that:

1. The proposal is in the best interests of unitholders.
2. Investors have approved transfer into the newly established clone UCITS side-pocket.
3. The UCITS has obtained prior written approval of the Central Bank for the proposal.
4. The UCITS provides a clear description to unitholders of the costs and fees associated with establishing the side-pocket. The UCITS must also provide details of the ongoing costs and fees payable in its prospectus.
5. The original UCITS is placed in wind-down mode at the same time as the creation of the new clone UCITS.

6. The original UCITS has established written policies in relation to management of the Affected Securities, including policies relating to the costs and fees associated with maintenance of the original UCITS.
7. The original UCITS reports to the Central Bank on an annual basis confirming whether or not the parameters and policies continue to be respected and outlining the prospects and/or plans for the side-pocketed assets and liquidation of the original UCITS.

Streamlined Process

To facilitate an orderly implementation of the side-pocketing arrangement, the Central Bank has established a streamlined authorisation/approval process. Side pockets may be facilitated only by the establishment of a new fund/sub fund. Accordingly, an application for authorisation/approval of a new fund/sub fund should be made in the normal manner, accompanied by:

- (1) A confirmation from the directors of the fund that the new fund/sub-fund is identical to the original UCITS;
- (2) A copy of the Resolution approving the establishment of the new fund/sub-fund; and
- (3) A mark-up of the investment objective and policy against that of the original UCITS.

Where such complete applications are received these will be processed within five working days. Applications which are not accompanied by the confirmation outlined in (1) above will be processed within normal time-frames.

Advance notice of such applications should be made to fundsauthorisation@centralbank.ie and onlineauthorisation@centralbank.ie.

Overarching expectations

As set out in the Central Bank's Industry Communication related to Fund Service Providers effectively managing risks due to Russia's war on Ukraine, it is the responsibility of fund management companies to take all necessary steps to ensure that the valuation of fund assets are fair and proper and in accordance with the relevant fund valuation policies and rules.

The Central Bank will continue to monitor the impact of the Russian invasion of Ukraine and related sanctions on investment funds and may issue further communications, where necessary.

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