

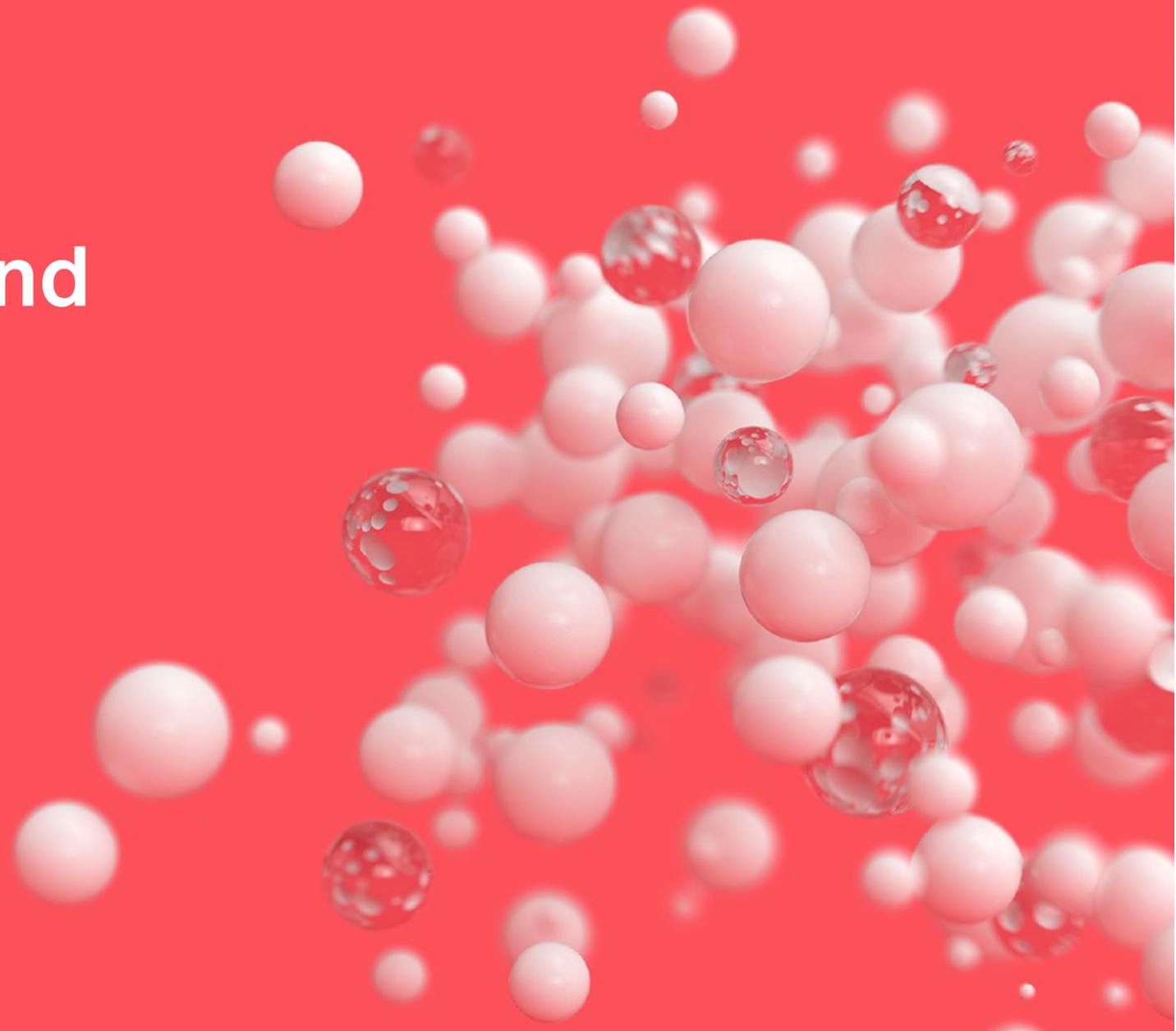
Simmons & Simmons

Irish Funds & Regulatory Quarterly Update

1 July – 30 September 2024

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Central Bank of Ireland (“CBI”) Updates



CBI Updates

CBI releases a specialized FAQ page on MiCA

On 10 September 2024, the CBI released a set of frequently asked questions (“[FAQs](#)”) regarding the application process for Crypto Asset Service Providers (“[CASPs](#)”) in line [with](#) the Markets in Crypto Assets Regulation (“[MiCA](#)”), Regulation (EU) 2023/1114.

The FAQs covers several key areas:

- Authorisations:** The CBI advises Virtual Asset Service Providers (“[VASPs](#)”) already registered with it to schedule an early engagement meeting for CASP application. Those in the process of registration are encouraged to reach out to their CBI contact. While no specific timelines for CASP applications are provided, the efficiency of the process depends on the readiness of the applying firm.
- Expectations:** The CBI is collaborating with European Union (“[EU](#)”) counterparts to ensure consistency in authorisation and supervisory expectations, based on MiCA and upcoming technical standards and guidelines. VASPs aiming for MiCA authorisation must undergo a comprehensive application process and meet stringent assessment criteria to fulfil both MiCA and CBI requirements. Pre-existing relationships with the CBI will be considered during the authorisation assessment.
- Policy:** The CBI clarifies that the simplified procedure under MiCA Article 143(6) applies only if certain conditions are met, including prior authorisation for crypto-asset services under national law before 30 December 2024, and compliance with specific MiCA chapters. It also highlights the importance of compliance with MiCA for firms listing stablecoins, with a deadline set for the end of 2024. The CBI’s stance on CASPs using non-EU trading venues is not specified, but it references a recent ESMA Opinion for further guidance. CASPs are allowed to offer services across borders if they provide necessary information to their National Competent Authority (“[NCA](#)”).
- VASPs:** The CBI recommends new VASP applicants to pursue CASP authorisation due to the timeline constraints. VASPs not seeking MiCA licensure will lack passporting rights under the Irish regime and are advised to prepare for service discontinuation by the end of the transitional period set by the Department of Finance.

Summary: This publication from the CBI offers valuable guidance on the CASP application process under MiCA, emphasizing the importance of thorough preparation.

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Regional Impact	Ireland
Sector Focus	Asset Management and Investment Funds, Institutional Managers and Regulated Funds

CBI Updates

CBI published Markets Update No. 7 of 2024

On 13 September 2024, the CBI published [Issue No 7 2024](#) of its regular Markets Update, in which it sets out alerts of interest to Irish regulated firms and other market participants.

For our summaries of the previous issues, please see the Related Articles at the foot of this page.

The new Update contains the following four items:

- **MiFIR Review and the Designated Publishing Entity (DPE) regime**

The CBI draws firms' attention to the [statement](#) published on 22 July 2024 by ESMA, regarding the new Designated Publishing Entity (DPE) regime for publication of OTC-transactions for post-trade transparency purposes.

The DPE regime was introduced as part of the recent MiFIR Review legislative package.

- **Central Bank publishes feedback statement to DP 11**

On 23 July 2024, the CBI published a [feedback statement](#) to [Discussion Paper 11](#), "An approach to macroprudential policy for investment funds" (the "DP").

The DP, which was published in July 2023, initiated a discussion on how a comprehensive macroprudential perspective in the regulation of the funds sector could be achieved.

Our summary of the DP can be found [here](#).

- **Requirements for Irish UCITS under the UK's OFR**

The UK's Overseas Fund Regime ("OFR") allows EEA UCITS (currently with the exception of Money Market Funds ("MMFs")) to access retail investors in the UK, provided they obtain prior recognition from the Financial Conduct Authority ("FCA").

Our practical guide to the OFR can be found [here](#).

The CBI notes that Irish authorised UCITS other than MMFs which intend to make use of the OFR may need to make changes to fund offering documents in accordance with the FCA guidance.

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Link	Simmons Insights Article and CBI Markets Update

CBI Updates

CBI published Markets Update No. 7 of 2024 continued...

Amendments to the prospectus must be submitted to the CBI as a post-authorisation update in one of two ways:

- Adding the relevant disclosure to the UK country supplement and filing it via the Portal using the “UCITS/AIF Country Supplement” Request Change; or
- Where the main body of the prospectus/supplement is amended, submitting the amended document to the Funds Post-Authorisation team via the Portal using the “UCITS/RIAIF: Prospectus/Supplement review - No new sub-funds” Request Change.

The CBI notes that the second option will be subject to a lengthier and more detailed review process and firms should factor this into timelines for submitting their OFR application to the FCA.

- **Implementation period for the macroprudential measures for GBP-denominated LDI funds ends**

On 29 July 2024, the 3-month implementation period for the [macroprudential measures for Irish-authorized GBP-denominated Liability Driven Investment \(LDI\) funds](#) ended.

All GBP-denominated LDI funds, existing and newly authorised must:

- now be compliant with the new measures; and
- prepare a new data return to allow for regular monitoring by the CBI.

To strengthen the resilience of Irish authorised GBP-denominated liability driven investment (LDI) funds, the CBI has codified the yield buffer supervisory expectation which it set out in its November 2022 letter to industry.

Our article regarding the industry letter can be found [here](#).

The CBI provided a three-month implementation period for funds existing as of 29 April 2024. This implementation period ended on 29 July 2024.

For further information please see link to our full Simmons Insights Article.

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Link	Simmons Insights Article and CBI Markets Update

CBI Updates

CBI published Markets Update No. 8 of 2024

On 27 September 2024, the CBI published [Issue No 8 2024](#) of its regular Markets Update, in which it sets out alerts of interest to Irish regulated firms and other market participants.

For our summaries of the previous issues, please see the Related Articles at the foot of this page.

The new Update contains the following three items:

Pre-Contractual Document Updates

- In 2022, a streamlined filing process was established for pre-contractual document updates, which were based on the SFDR Level 2 requirements.
- This filing process will close from Friday, 18 October 2024.
- It should be noted that submissions related to SFDR Level 2 implementation filed via SFDR@centralbank.ie after 18 October will not be noted but must, instead, be submitted in line with standard post-authorisation processes.

The process for submitting certain applications to the CBI is set to change.

From 1 October 2024, the process for submitting applications for clearance of investment managers and non-EU AIFMs and for UCITS mergers and AIF amalgamations will change as follows:

(a) Applying for clearance of Investment Managers and non-EU AIFMs:

From 1 October 2024, these applications will need to be submitted only via the CBI's Portal, rather than, as now, via Orion or by email.

The Investment Manager mailbox will be retained for notifying changes to details for existing, previously cleared investment managers only.

New applications for clearance, though, will not be accepted by email and where an application for clearance is submitted to Orion this will be either accepted or redirected.

More information can be found [here](#).

(b) Applying for UCITS mergers/AIF amalgamations:

From 1 October 2024, these applications will need to be submitted only via the CBI's Portal, and will no longer be accepted by email.

More information can be found [here](#).

ESMA guidelines on fund names using ESG or sustainability-related terms – new filing process for UCITS and AIFs

- The CBI has announced that it has established a new streamlined filing process for updates to fund names based on the requirements set out in [ESMA's guidelines](#).
- The Guidelines will start to apply from 21 November 2024.

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Link	Simmons Insights Article and CBI Markets Update

The CBI’s portal for cross-border distribution of investment funds went live on 11 September 2024.

The CBI is transitioning from accepting certain UCITS and AIF passporting applications via email to using the Portal. This change is in response to the European Securities and Markets Authority (“**ESMA**”) implementing phase II of the CBDIF legislation, which facilitates the notification exchange between home and host Member States.

It's important to note that starting from 11 September 2024, the following passporting applications will no longer be accepted via email and must be submitted through the Portal:

- UCITS Outward Marketing notifications and denotifications;
- Article 32 Outward notifications, meaning notifications by Irish AIFMs for marketing EU AIFs in EU Member States other than Ireland, and denotifications; and
- Article 31 Inward notifications, for Irish AIFMs marketing EU AIFs within Ireland, and denotifications.

Firms should familiarise themselves with the CBI’s publication called “[Portal – A Guide to Submitting CBDIF Passporting Applications](#)” and take all necessary steps to ensure that all applicable passporting applications are made correctly.

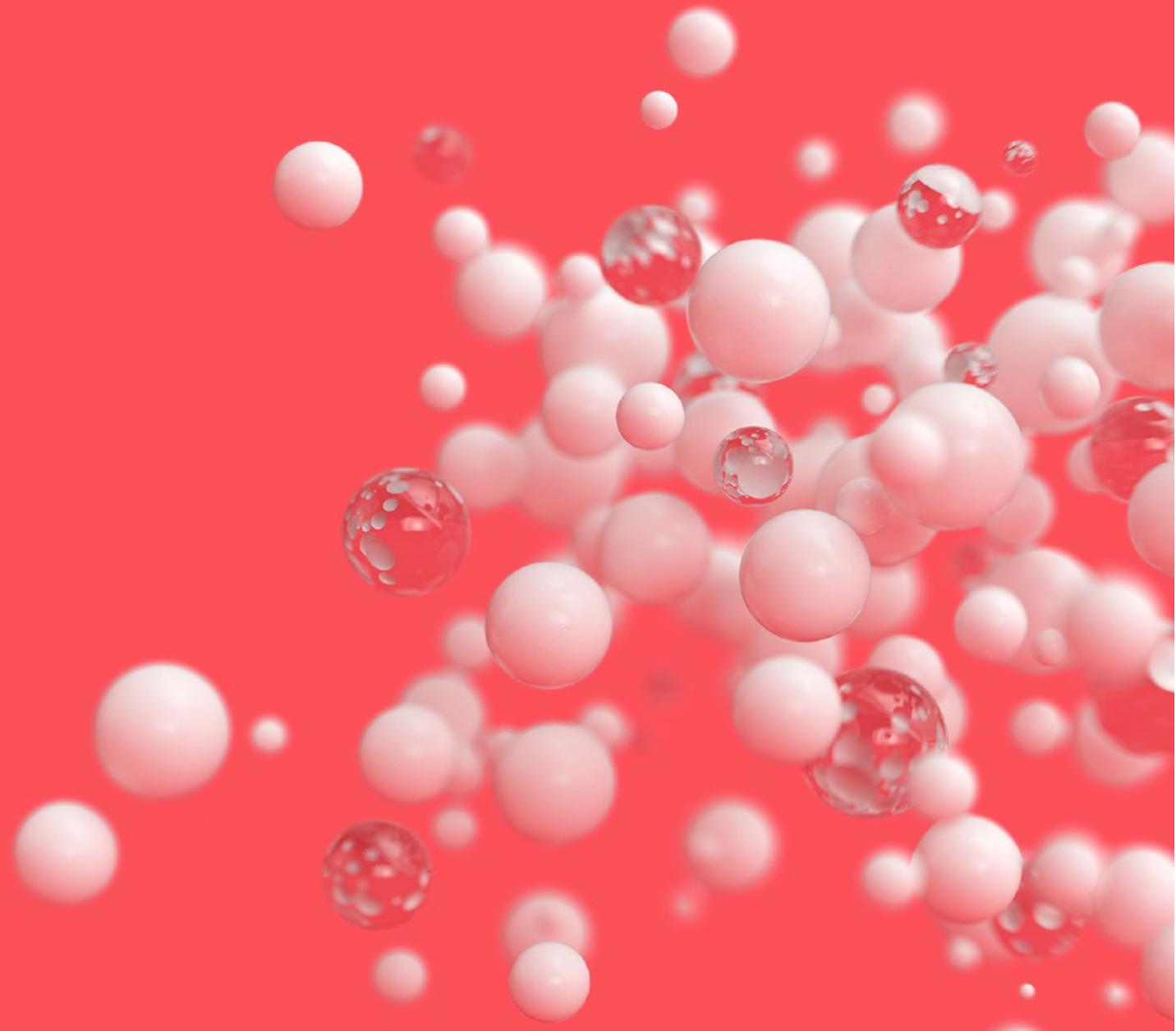
Update	1 July – 30 September 2024
Regional Impact	Ireland
Sector Focus	Asset Management and Investment Funds and Financial Institutions
Link	Portal – A Guide to Submitting CBDIF Passporting Applications

Timing

- **11 September 2024** – CBI passporting notification change now live.



European Union (EU) Updates



ESMA Guidelines on Naming Funds with ESG or Sustainability-related Terms

On 21 August 2024, ESMA released translations of its Guidelines on the use of ESG or sustainability-related terms in fund names across all official EU languages.

These Guidelines will be effective from 21 November 2024, three months following their publication. NCAs are required to inform ESMA by 21 October 2024, two months post-publication, regarding their compliance status, which can be:

- compliant;
- non-compliant but planning to comply; or
- non-compliant without plans to comply.

Managers of funds established prior to the Guidelines' effective date must ensure these funds adhere to the Guidelines starting six months after their application, from 21 May 2025.

For additional details on ESMA's Guidelines linked opposite

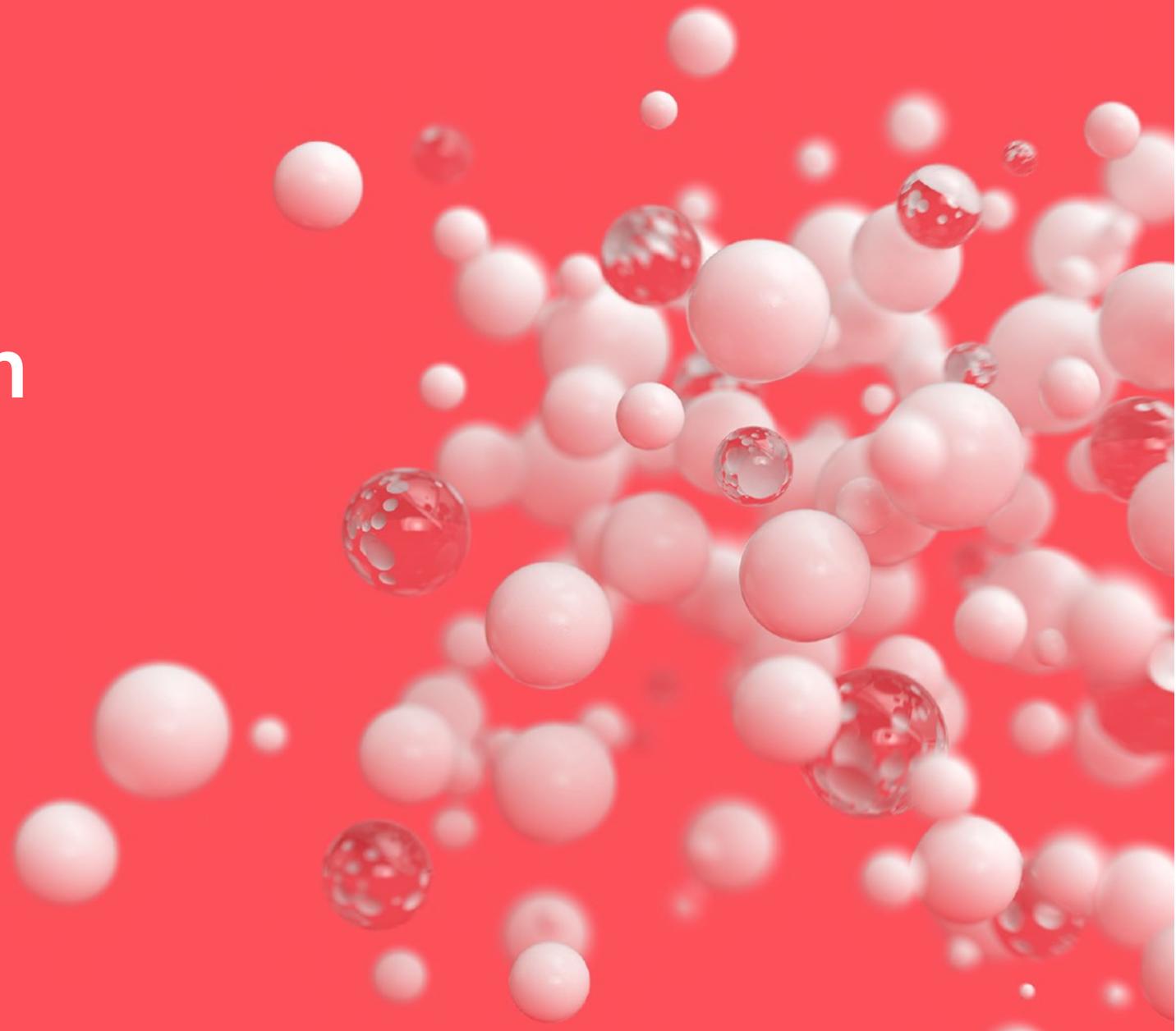
Timing



- **21 November 2024** - ESMA Guidelines will be effective for new funds
- **21 May 2025** - for existing funds.

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Regional Impact	EU and European Economic Area (EEA)
Sector Focus	Asset Management and Investment Funds, Institutional Managers and Regulated Funds
Link	ESMA Guidelines

Upcoming Legislation Updates



Upcoming Legislation

New legislation enacted increasing thresholds for Irish company size

- On 19 June 2024, Minister for Enterprise, Trade and Employment, Peter Burke TD, signed into law the European Union (Adjustments of Size Criteria for Certain Companies and Groups) Regulations 2024 (the "Regulations"), which came into effect from 1 July 2024.
- The Regulations will see the Companies Act 2014 amended to increase the company size threshold for micro, small and medium companies by 25 per cent. The purpose of the Regulations is to adjust company size thresholds in line with 25 per cent inflation, thereby reducing the regulatory and administrative burden on companies, which would otherwise become subject to audit and reporting requirements applicable to larger companies.
- The main benefit will be seen in those companies which will now be classified as either small or micro, allowing those qualifying to claim both abridgement and audit exemption, significantly easing the burden associated with operating a small business.
- The measures apply for financial years beginning on or after 1 January 2024, enabling companies to benefit from the increased thresholds immediately. Companies may elect to apply the measures on or after 1 January 2023.
- *For further information please see link to our full Simmons Insights Article below.*

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Regional Impact	Ireland
Sector Focus	Asset Management and Investment Funds and Financial Institutions
Link	Simmons Insights Article and Threshold Table

Upcoming Legislation

Dáil Éireann will resume on 18 September 2024 with key legislation [updates](#) due.

The Companies Act

The Department of Enterprise, Trade and Employment published the *Companies Act (Corporate Governance, Enforcement and Regulatory Provisions) Bill* on 24 July 2024 (the “[Bill](#)”), accompanied by an Explanatory Memorandum. It is anticipated to move through the legislative process quickly. For an in-depth analysis, see our Corporate Group's article: [Draft Legislation to Amend the Companies Act 2014](#). A notable feature of the Bill is its provision to permanently adopt the temporary measure for document execution by a company under seal, a practice initially introduced between August 2020 and December 2022 during the COVID-19 pandemic. This change is expected to take effect later this year after the Bill has been passed by the Houses of the Oireachtas.

Reform of Limited Partnership Structure

In late July 2024, the Department of Enterprise, Trade and Employment introduced the General Scheme of the *Registration of Limited Partnerships and Business Names Bill 2024*, aimed at updating the Limited Partnerships Act 1907. This followed a consultation on potential reforms initiated in January 2019. Currently, the proposed changes are under review by interested parties, with key points highlighted in our latest analysis: [Limited Partnerships: Proposals for reform published](#).

Key proposals include mandating that a limited partnership (“[LP](#)”) must have a continuous link to Ireland, either through a registered office or a principal place of business (“[PPOB](#)”) within the country. Registration applicants must prove the LP's intention to engage in economic activities in Ireland and ensure at least one general partner is a resident within the European Economic Area (“[EEA](#)”) or has an EEA-based PPOB for the duration of the LP. Additionally, the General Scheme suggests requiring each LP to submit an Annual Confirmation Statement by 1 July every year to verify its registration details. This is in addition to the existing obligations to report any changes when they happen and for certain LPs to submit annual financial statements.

It's crucial to recognise that these proposals are part of a general scheme currently undergoing pre-legislative scrutiny (“[PLS](#)”) and could be modified before being formally introduced as a bill. PLS is expected to commence after the Dáil resumes session.

Next Steps

The Companies Act

We will continue to monitor the situation and report back accordingly

Reform of LP Structure

The legislative process, likely occurring in 2025, involves several stages in the Houses of the Oireachtas. Following enactment, the Registrar will have 30 months to inform existing LPs about re-registration or deregistration requirements. LPs will then have a 12-month period to re-register upon receiving notice, failing which the Registrar may remove them from the register.

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Regional Impact	EU EEA
Sector Focus	Asset Management and Investment Funds

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