



Asset Management & Investment Funds Update

June 2022

Supervisory statements on UCITS' use of side-pockets

On 16 May 2022, the Central Bank issued a notice of intention to permit UCITS to side-pocket assets impacted by the Russian invasion of Ukraine, subject to several specific conditions:

- only assets which have become illiquid/untradeable as a result of the Russian invasion may be side pocketed
- the side-pocket may only be established by way of a clone fund (either a new UCITS or sub-fund of the existing UCITS) into which the liquid assets can be transferred and investors, who must approve the transfer, are issued with shares on a pro-rata basis to their holding in the original fund
- illiquid assets will remain in the original fund, which must be placed in wind-down mode at the same time as the creation of the clone fund and be wound down over time with annual progress reports to the Central Bank
- the Central Bank has established a streamlined 5-day process for the authorisation/approval of the clone fund which can be availed of by submitting the new fund application in the normal manner along with a Board confirmation that the clone fund is identical to the original fund, a markup of the two objectives and policies and a copy of the shareholder resolution approving the arrangement

Publication of the Central Bank notice of intention was preceded by a statement from ESMA (also dated 16 May 2022) setting out an acceptable side-pocket arrangement for UCITS broadly similar to the above.

Next steps

While facilitation of side-pocketing by UCITS is not unwelcome, the ESMA/Central Bank process is not nearly as efficient or economical as the share class side-pocket option available to AIFs. It remains to be seen whether it will be availed of other than perhaps by funds already considering closure as a means to address issues arising from the situation in Ukraine.

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