

CBI Finds Deficiencies in Marketing Practices of Investment Firms

What You Need to Know

- On 10 October 2024, the Central Bank of Ireland ("CBI") issued an industry letter ("Dear CEO Letter") on the findings from a thematic review on the application of MiFID marketing and advertising requirements.
- This is aimed at Irish authorised MiFID investment firms, credit institutions and fund management companies providing MiFID investment services to retail clients.

Background

This review was part of a Common Supervisory Action coordinated by the European Securities and Markets Authority ("ESMA"). Please see our client update [ESMA Report on MiFID II Marketing Requirements](#) on ESMA's report published as part of this process on 27 May 2024.

The CBI's thematic review assessed compliance with MiFID marketing and advertising requirements and to ensure investor protection, particularly considering the digitalisation of financial services.

The Dear CEO Letter outlines the CBI's key findings and expectations arising from the review.

Key Findings

The CBI identified several deficiencies and areas for improvement in firms' marketing and

advertising practices. The core findings are as follows:

Marketing and Advertising Content Not Clearly Identifiable as Such

- Many firms failed to clearly identify all marketing and advertising content as such, leading to ineffective and non-transparent communication with clients.
- Firms often used disclaimers that were not prominent or clear enough to identify the content as marketing material.
- There are divergent approaches as to what is marketing and advertising content.

The Central Bank "*views any material, regardless of the means of dissemination, designed to promote or sell a financial instrument and/or an investment service, as marketing material.*"

Poor Governance and Controls

- While most firms had documented policies and procedures, there were significant deficiencies in governance and control frameworks, especially in cases where marketing functions were outsourced.
- Some firms lacked a documented internal control environment and others did not involve the compliance function effectively in the marketing process.

Outsourcing Arrangements

- Many firms outsourcing marketing functions to group affiliates did not have a documented service level agreement in place.

Deficiencies in Published Marketing and Advertising Content

- Some instances of unclear and potentially misleading content were identified on digital channels.

Monitoring of Published Marketing & Advertising Content and Compliance Function Review

- There was an over-reliance on initial reviews, with inadequate post-publication monitoring.
- Many firms did not include marketing content review in their annual compliance monitoring plan.

Gaps in Identification of Target Audience

- Firms showed considerable variance in defining the characteristics of their target audience.
- Some firms did not have policies and procedures in place to ensure an appropriately defined target audience.

The Dear CEO Letter sets out a range of expectations for firms to address these deficiencies.

All marketing and advertising content must be clearly identifiable as such, using prominently placed text boxes or disclaimers. Published content should be regularly reviewed to ensure it is fair, clear and not misleading and firms must have robust governance and oversight arrangements in place, with clearly documented

internal controls and decision-making processes.

Action Required

Irish authorised MiFID investment firms, credit institutions and fund management companies providing MiFID investment services to retail clients are required to review their marketing and advertising practices against the Dear CEO Letter findings.

This review should be documented and an action plan should be discussed and approved by each firm's board of directors by 31 January 2025.

The CBI's findings highlight the need for firms marketing to retail clients to enhance their marketing and advertising practices to ensure they are fair, clear and not misleading. Relevant firms will need to take immediate action to address the identified deficiencies and align their practices with the CBI's expectations.

The Financial Services Regulatory Group at Maples Group can assist investment firms in navigating the complexities of the MiFID marketing and advertising requirements, for example through carrying out review audits of your marketing materials and processes, or by assisting in developing or updating policies and procedures that align with the MiFID requirements.

Further Information

Further information on our Irish Financial Services Regulatory Group and the services we provide is available on our website¹ and in our FSR and FinTech² brochures.

If you would like further information, please liaise with your usual Maples Group contact or the persons below.

¹ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

² <https://maples.com/services/specialty-services/irish-financial-services-regulatory/fintech>

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October 2024

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