

# Legal Update

## Enforcement Action against Irish fund Manco

The Central Bank of Ireland (the “CBI”) has recently announced details of an enforcement action it took against an Irish authorised management company (Manco) authorised by it under the Alternative Investment Fund Managers Directive (“AIFMD”) (the “AIFM”). Sanctions comprising a reprimand and monetary penalty in the amount of €562,160 were deemed warranted (although following application of the 30% settlement scheme discount the final amount of the fine imposed was €393,512).

### Background

The CBI is responsible for supervising regulated financial service firms authorised in Ireland. It has stated it aims to ensure sanctions are imposed that constitute an effective deterrent for breaches. This is the CBI’s 157th enforcement action to date, although the first under the revised Administrative Sanctions Procedure (ASP) following the changes introduced by the enactment of the Central Bank (Individual Accountability Framework) Act, 2023.

### Facts

Following issues identified in the 2019 audit relating to investments in illiquid, hard to value private assets, the CBI was notified of the relevant fund’s suspension and subsequently commenced an investigation. Investors recovered their initial investments following a settlement process with the relevant AIFM.

### Breaches Identified

The investigation identified 8 breaches of the AIFM Regulations, namely failure to:

- conduct adequate due diligence and monitor delegated activity

- identify and manage conflicts of interest
- ensure adequate risk management
- ensure appropriate and consistent procedures for proper asset valuation
- prior disclosure of an accurate description of valuation procedures and pricing methodology to investors
- notify the CBI of potential legal breaches
- act in the best interests of investors
- treat all investors fairly.

The prescribed contraventions as per the undisputed facts set out in the Settlement Notice were agreed by the AIFM.

### Next Steps

The CBI is now applying to the High Court for confirmation of the sanction imposed. It will confirm this unless it is satisfied that it is manifestly disproportionate and needs reconsideration along with any recommendation of the High Court. With both the CBI and ESMA increasing focus on the role of Mancos including AIFMs this underlines the importance of compliance. xxxxxxxxxxxxxxxxxxxxxxxxxxx

Contact us for more information.



Mark Browne  
Partner  
email: [markbrowne@clerkinlynch.com](mailto:markbrowne@clerkinlynch.com)  
Phone: 01 611 4400

