

## Legal Update

# New CBI Dear CEO Letter for MiFID firms

The Central Bank of Ireland (the “CBI”) has issued a “Dear CEO” letter dated 10<sup>th</sup> October 2024 (the “Letter”) regarding a “Common Supervisory Action (“CSA”) on the MiFID II Marketing Communications Requirements”. This Letter includes specific actions which not only MiFID firms but also credit institutions and fund management companies providing MiFID II services must comply with by January 2025.

### Background

CSAs represent a relatively new tool of the European Securities and Markets Authority (“ESMA”) to foster regulatory convergence and consistency across the EU. In 2023 a CSA was conducted with the National Competent Authorities, including the CBI, to assess relevant firms’ compliance with their obligations relating to marketing communications under MiFID II. The CBI conducted a thematic review to assess compliance, and the Letter has been issued as a result.

### Core Findings

The Letter details the core findings of the CBI and highlights deficiencies, namely:

- Marketing and advertising content not clearly identified as such;
- Poor governance and controls;
- Lack of documentation for outsourcing;
- Deficiencies in published content;
- Need for post publication compliance monitoring;
- Failure to correctly identify the target market.

The above findings are aligned with the findings in the relevant ESMA Report issued based on the CSA

but there are some differences in focus. In order to ensure compliance firms need to ensure adherence to both sets of findings.

A schedule to the Letter details the key findings and expectations of the CBI as well as examples of good practices.

### Next Steps

The Letter clarifies that it is the responsibility of firm boards to ensure robust governance and internal control arrangements are in place in accordance with the relevant legal framework. All Irish MiFID and management companies offering MiFID II services are obliged to review their marketing and advertising practice in light of the Letter. This review and subsequent board approval of any resulting action plan should be completed by 31<sup>st</sup> January 2025, with minutes evidencing this.

### How Clerkin Lynch Can Help

Clerkin Lynch’s regulatory team have a keen focus on all aspects of financial services regulation and can assist with ongoing compliance including the preparation of relevant policies and procedures. Contact us for more information.



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