



IRISH FINANCIAL SERVICES
REGULATORY AUTHORITY

UCITS III - The Product Directive

8 December 2006
www.financialregulator.ie

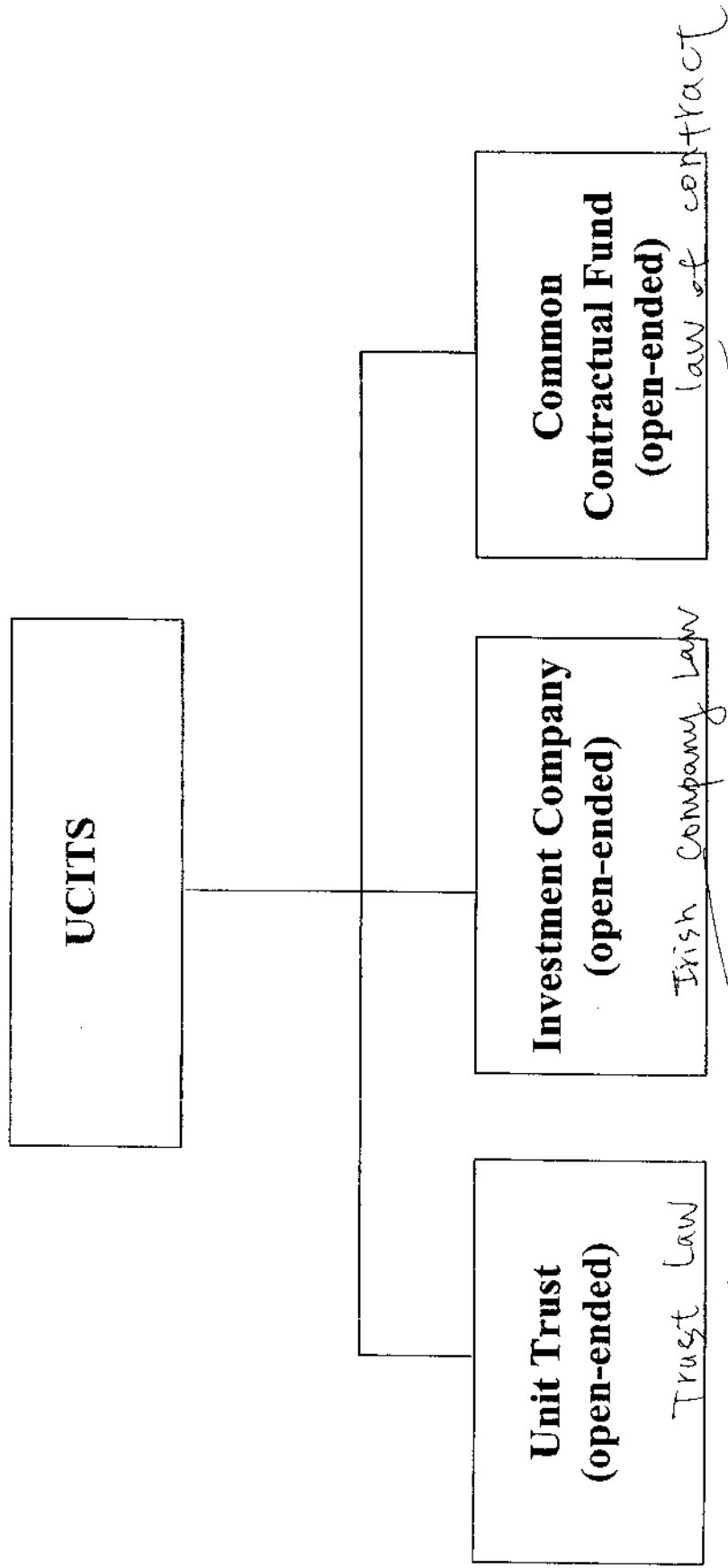
Financial Institutions and
Funds Authorisation

Regulations and Guidance for UCITS

- **European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2003 as amended**
- **UCITS Notices**
- **Guidance Notes**



LEGAL STRUCTURE



dit

IE authorized & supervised



Product Directive - 2001/108/EC

- **Entered into force on 13th February 2002**
- **Implemented into Irish Law on 29 May 2003 by Statutory Instrument No 212 of 2003**



Product Directive

Extended the range of permitted investments for UCITS to include:

- Funds of funds
- Cash/Money Market Funds *liquid*
- Derivatives Funds
- Index-tracking Funds



Funds of Funds

specific disclosure to the investor

- Investment in any one CIS – 20% (this limit applies to investment in an individual sub-fund of an umbrella fund;
- Investment in non-UCITS CIS – 30% in aggregate
- Underlying CIS must not be a fund of funds;
- Prohibition on double charging if underlying CIS is a linked scheme;

Funds of Funds

- Guidance Note issued in November 2003 on acceptable investments in other CIS
- Non-UCITS CIS must be subject to equivalent supervision and provide an equivalent level of investor protection

Funds of Funds

- Financial Regulator currently permits: ("equivalent" fund)
 - Guernsey Class A Funds Irish ~~to~~ cooperation with
 - Jersey Recognised Funds the CA 没有一定又 IOSCO members
 - Isle of Man authorised Funds
 - Irish non-UCITS retail CIS which comply with or on-going contact
 - UCITS Notices
 - Non-UCITS CIS authorised in a Member State of EEA, US, Jersey, Guernsey or Isle of Man which comply with UCITS Notices

Cash/Money Market Funds

Acceptable bank deposits:

- Must be repayable on demand or have the right to be withdrawn, and mature in no more than 12 months
- Bank must be credit institution established in EEA, Switzerland, Canada, Japan, US, Jersey, Guernsey, Isle of Man, Australia or New Zealand

Cash/Money Market Funds

- No more than 20% on deposit with the same institution
- UCITS may hold ancillary liquid assets. Deposits with an individual bank, other than those outlined above, is limited to 10% of NAV

> 50% Irish fund is money mkt fund

Cash/Money Market Funds

Money market instruments are defined as:
instruments normally dealt in on the money market which are liquid, and have a value which can be accurately determined at any time; (CESR advice now permits the use of amortised cost)

“Liquid” is defined in the Notices:

Instruments/securities are regarded as being liquid where they can be repurchased, redeemed or sold at limited cost, in terms of low fees and narrow bid/offer spread, and with very short settlement delay

→ the issuer's 资格

Cash/Money Market Funds

Money market instruments which are not traded on a regulated market are permitted where:

- The issuer or issuer is regulated for the purpose of protecting investors and savings
- The issuer falls within the categories set out in Regulation 45(h)(i), (ii) and (iii).

★ Dealt with further in CESR paper ↙

Derivative Funds

- Underlying asset(s) must consist of: transferable securities/money market instruments, CIS, deposits, financial indices, interest rates, FX rates or currencies FDI on commodity (X) commodity index (V)
- UCITS cannot be exposed to risks which it could not otherwise assume
- The use of derivatives must not cause the UCITS to diverge from its investment objectives

Derivative Funds

OTC derivatives are acceptable provided the counterparty:

- is an acceptable credit institution or an ISD firm
- has minimum credit rating of A2/P2 or equivalent
- will value the transaction on a daily basis and will close it out at the request of the UCITS

Derivative Funds

In addition:

- the counterparty's value will be subject to independent verification at least weekly;
- risk exposure to the counterparty is limited to 5% of NAV; or 10% if an acceptable credit institution (exposure can be reduced by the use of collateral)
- Guidance Note issued in May 2006 on investment by UCITS in Financial Derivative Instruments

Index Trackers

Index tracking UCITS can invest up to 20% in one issue provided the index is:

- sufficiently diversified
- represents an adequate benchmark for the market to which it refers; and
- is published in an appropriate manner.

The limit may be raised to 35% per issuer where this is justified by exceptional market conditions

issuers 的 特殊 情况

CESR work on Product Directive

- **Transitional arrangements for existing**

UCITS

- **Simplification of Registration
Procedures**

- **Clarification of Definitions**



Transitional Arrangements

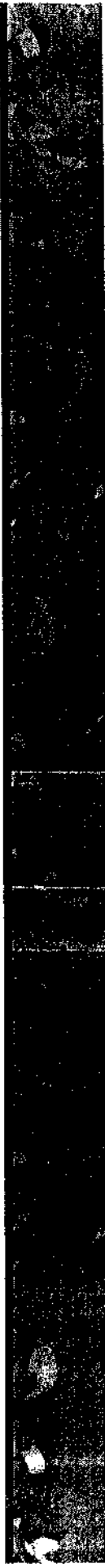
- **In January 2005 CESR published Guidelines for supervisors regarding the transitional provisions of the amending UCITS Directives**
- **Final date for implementation of both Directives – February 2007**

File to ~~the~~ host country, EP 9 (A) & 9

in K-TM

Simplification of Notification Procedures

- In June 2006 CESR published its Guidelines to simplify the registration procedures for UCITS
- Implementation ongoing within Member States
- In October 2006 the Financial Regulator amended UCITS Notice 15 on inward marketing UCITS to reflect the Guidelines



Clarification of Definitions

- In January 2006 CESR published its advice to the European Commission on Clarification of Definition concerning eligible assets for UCITS

Level 1 - Directive (EU)

- Level 2 and Level 3 measures to be finalised early 2007 ^{by Reg. regulation}

- Implementation timeframe uncertain

ETF → open-end fund

基金 trustee, administrator

Clarification of Definitions

Areas Covered

- Transferable securities
- Closed-ended funds
 多: treat like a security
 有些 CA treat like a fund
- Money market instruments
- Structured securities
- Derivatives (including credit derivatives and exposure to financial indices)
 → convertible bond
 被视作 Derivative
- Index tracking UCITS
 tracking ex 100
- Underlying CIS
 non-UCITS criteria

