

Date: 10 March 2021

Markets Policy Division (in conjunction with CAST)
Central Bank of Ireland
North Wall Quay
Dublin 01
D01 F7X3

Dear Sir/Madam

Re: CP 133- Consultation on enhancements to the Central Bank Client Asset Requirements, as contained in the Central Bank Investment Firms Regulations

We welcome the opportunity to consult on the proposed enhancements to the Client Asset Requirements ('CAR'). The feedback below represents the views of Pershing Securities International Limited ('PSIL'). PSIL as a MiFID investment firm is practiced in meeting the regulatory requirements of client asset protection.

We agree with many of the proposals contained in the Consultation Paper and fully support the initiative to enhance the current client asset regime. In relation to the questions raised in the Consultation Paper, the following comments specifically address questions 23 and 34.

Question 23: Do you agree with the Central Bank's proposal to require investment firms to perform an 'internal' client financial instrument reconciliation? If not, please explain why. Responses should include details of any barriers an investment firm may face in performing this process. Details of any suggested alternative processes that could address the risk of loss/misallocation of client financial instruments and meet the objective of the proposed enhancement should also be included.

We agree with the objective of this proposed enhancement to mitigate the risk of loss/misallocation of client financial instruments. However, we believe that where a firm has an integrated internal system that enables the firm to maintain adequate client financial instruments holdings at both the client and aggregate levels the need to perform a separate 'internal' reconciliation is not required. We believe it would be sufficient for firms to be able to evidence that the adequate checks and controls that capture and maintain transactional information correctly are operating as designed.

We note that the proposed 'internal' client financial instrument reconciliation will be in addition to the existing requirement under Regulation 57(3) of the CAR to reconcile internal records against those of a third party with whom client financial instruments have been deposited. Should the Central Bank of Ireland proceed with its proposal for firms to perform an "internal" client financial instrument reconciliation we would request guidance for those firms who already perform a three way client financial instrument reconciliation i.e. reconciling internal client ledgers to internal custodian ledgers to external third party records. It is our view that this would already meet the objective of the 'internal' reconciliation. We would seek clarity for those firms as to whether the expectation is to complete the 'internal' and external reconciliation independent of each. We believe a three-way reconciliation adds the greatest level of client asset protection.

Question 34: Do you agree with the Central Bank's proposal to align process for the remediation of client fund differences or discrepancies identified through the performance of the daily calculation with the process for remediating reconciliation differences as set out in Regulation 57(7)? If not, please explain why. Details of any suggested alternative processes to ensure that the internal records used in the performance of the daily calculation are accurate to (i.e. meet the objective of the proposed enhancement) should also be included.

No, we do not agree. We are of the view that the proposed approach would add work without any additional benefit to the protection of client assets. At a practical level, the firm will have protected the client funds through the performance of the daily calculation and by rectifying any client fund shortfall or excess identified. At this point the risk to client funds is mitigated. From experience, the difference that arises during the daily calculation is attributable to a number of factors such as timing differences arising from settlement delays of trades and similarly cash transfers, which are resolved quickly. We believe the client funds reconciliation process addresses the objective of this proposal to ensure that the internal records an investment firm uses in the performance of the daily calculation are accurate.

In addition, throughout the consultation paper there is reference to introducing new CAR guidance. We would welcome the opportunity alongside other industry participants to provide feedback on the proposed changes to the CAR guidance.

We trust that this submission provides valuable input to this consultative process.

Best regards

Michelle McNamara

Michelle McNamara
Compliance Manager