



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

Consultation Paper 142

# Consultation on Prospectus Fees and Service Standards

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# 1. Executive Summary

The aim of this consultation is to elicit views on the following matters:

- (i) **Funding the cost of prospectus approval activities** – Our proposals on the manner in which the Central Bank of Ireland (Central Bank) funds its prospectus approval activities in the future, including our proposal on the manner in which we will implement our strategy of moving towards full industry funding; and
- (ii) **Prospectus approval service standards** – Our proposals to revise the current prospectus approval service standards set out in the Central Bank’s Regulatory Service Standards Performance Report (Service Standards Report).

Section 2 of this Consultation Paper sets out the Central Bank’s role in securities and markets supervision. Section 3 sets out information relating to funding the cost of financial regulation.

Further information in relation to the matters upon which we are consulting is set out in Sections 4 and 5.

Section 6 sets out the Central Bank’s intention over the longer term to terminate the Prospectus Advisor Agreement (PAA) in light of the proposals set out in Sections 4 and 5.

As part of the consultation process, we are inviting views on all aspects of the proposals set out in Sections 4 and 5 of this Consultation Paper. In this context, we have a specific question at the end of Sections 4 and 5 on which we wish to receive views.

It is important that all stakeholders participate in this consultation process to ensure that the outcome of this review is shaped on the widest possible range of views and opinions.

## 2. Securities and Markets Supervision

The Central Bank's mission is to serve the public interest by safeguarding monetary and financial stability and by working to ensure that the financial system operates in the best interests of consumers and the wider economy. Ensuring the protection of the best interests of consumers and investors is a fundamental part of the Central Bank's mission.

The Central Bank is responsible for the supervision of conduct on primary and secondary securities markets against an objective of ensuring an effectively supervised securities market. This contributes to our work to foster a trusted financial system that supports the wider economy.

The Central Bank has a gatekeeper role as we are the competent authority responsible for the scrutiny and approval of the prospectus required for issuers of securities making offers to the public and/or seeking admission to trading on a European Union (EU) regulated market under [Regulation \(EU\) 2017/1129](#) (Prospectus Regulation).

In applying our gatekeeper role in this area, we have developed the following set of gatekeeper principles under the **ROBUST**<sup>1</sup> acronym which guide us in the assessment of applications for the approval of prospectuses:

- **Risk based:** We will place primacy on the review of issuances intended for retail investors and will apply a higher level of scrutiny and challenge to submissions that pose higher risk.
- **Outcome focused:** Our scrutiny will place emphasis on high quality outcomes for investors and market integrity.
- **Best practice led:** We will conform to EU and international best practice in our regulatory approach.
- **Use our resources to best effect:** We will allocate resources to areas of priority or risk identified. We will endeavour to deliver on service standards but this intention must not undermine the quality of reviews.
- **Stakeholder engagement:** We will ensure that any stakeholder engagement undertaken is purposeful and for the protection of investors.

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<sup>1</sup> These ROBUST principles were set out in the Central Bank's Securities Markets Risk Outlook Report published on 8 February 2021 and is available at this [link](#).

- **Trusts but verifies:** We will place greater responsibility on applicants to demonstrate compliance and require verification, where appropriate.

The implementation of these ROBUST principles has led us to review all aspects of our gatekeeping role in this area and has influenced the proposals set out in this Consultation Paper.

### 3. Funding the Cost of Financial Regulation

Since 2004, the total cost of financial regulation has been funded by a combination of regulatory levies and fees paid by the financial services industry and a subvention from the Central Bank (and ultimately the taxpayer).

In 2015, the Central Bank signalled its strategy to move towards full industry funding<sup>2</sup>. In line with this strategy, the Central Bank publishes an annual Guide to Industry Funding available in the Guides to Industry Funding Regulations<sup>3</sup>. These guides set out the recovery rates for the proportion of the cost of financial regulation activity to be funded by industry.

Section 1 in the latest [Funding Strategy and Guide to the 2020 Industry Funding Regulations](#) contains the most recent update on the Central Bank's funding strategy and progress towards full industry funding<sup>4</sup>.

On 14 June 2019, in a statement entitled "[Funding the cost of Financial Regulation](#)", the Central Bank, with approval from the Minister for Finance and Public Expenditure and Reform, published the expected path towards 100% industry funding in specific areas of the Central Bank's regulatory activities over the next five years. The approach is based on a "user pays" principle to reduce and ultimately eliminate the taxpayer paying some of the costs of financial regulation. Our proposals set out in Section 4 of this Consultation Paper are generally aligned with our other areas of regulatory activities in moving towards full industry funding.

In line with this strategy of moving towards 100% industry funding, this Consultation Paper is seeking views, *inter alia*, on the fee structure that we propose to introduce to enable us to move from the current approach of partial funding of the cost of the Central Bank's prospectus approval activities<sup>5</sup> towards full industry funding.

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<sup>2</sup> See CP95 "Funding the Cost of Financial Regulation" (joint consultation with the Department of Finance) – Previous Consultation Papers are available at this [link](#).

<sup>3</sup> Guides to the Industry Funding Regulations are available at this [link](#).

<sup>4</sup> See Section 1 of the Funding Strategy and Guide to the 2018 Industry Funding Regulations which set out the 2018 – 2020 funding strategy and is available at this [link](#).

<sup>5</sup> Prospectus approval activities include, *inter alia*, scrutiny, approval, passporting and receipt of filed documents such as final terms.

## 4. Proposals to Fund the Cost of the Central Bank's Prospectus Approval Activities

### Central Bank Subvention of Securities Market Supervision Activities

Since 2007, the Central Bank has incurred costs associated with certain securities market supervision activities. The cost of these activities has been partially offset by securities market fees and the balance has been funded by Central Bank subvention<sup>6</sup>.

A key principle of the Central Bank's funding strategy is to move towards full funding of financial regulation costs by industry. In pursuit of this strategy, the Central Bank intends to reduce the level of subvention associated with a key component of its securities market supervision mandate, specifically, prospectus approval activities.

### Current Fee Structure for Prospectus Approval

The current fee structure for prospectus approvals is set out in the following two documents:

- (i) **Prospectus approval fees** – Schedule to the [Central Bank Act 1942 \(Section 32E\) Prospectus and Related Documents Approval Fee Regulations 2015](#) (2015 Fees Regulations); and
- (ii) **Document charges** – Schedule 4 of the [PAA](#)<sup>7</sup> (further details set out in Section 6 below).

The 2015 Fees Regulations set out the current fees for prospectus approvals.

Schedule 4 of the PAA sets out the document and annual charges payable by a Prospectus Advisor. A per document charge of €250 is payable, quarterly in arrears, by the Prospectus Advisor for the approval of certain debt

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<sup>6</sup> Further information relating to the subvention from the Central Bank is set out in the Annual Reports available at this [link](#).

<sup>7</sup> Agreement relating to recognition as Prospectus Advisor in relation to the approval of prospectuses pursuant to the Prospectus (Directive 2003/71/EC) Regulations 2005 (as amended). A template of which is included here.

documents<sup>8</sup>. Certain Prospectus Advisors were subject to an annual charge payable to the Central Bank of €14,500<sup>9</sup>.

The 2015 Fees Regulations came into operation on 1 May 2015 and have not been reviewed since then. The 2015 Fees Regulations increased the prospectus approval fees from those set in 2011<sup>10</sup> for non-equity securities only. Prospectus approval fees for equity securities (including equity securities issued by collective investment undertakings) and document charges under the PAA have been static since 2011.

The majority of the income generated from prospectus approvals is accounted for by prospectus approval fees under the 2015 Fees Regulations with the balance comprising of document charges under the PAA.

Each year, a significant shortfall has been subvented by the Central Bank as fee income falls considerably short of the cost of the associated activities. Consistent with the Central Bank’s funding strategy, revisions to fees are now proposed in order to eliminate or substantially reduce annual subvention. In proposing these changes, the Central Bank is committed to:

- (i) Introducing changes that seek to avoid a disproportionately negative impact on the capacity of issuers to access EU capital markets while reducing the burden, through subvention, on the taxpayer;
- (ii) Adhering to the Prospectus Regulation which states that the level of fees charged by the competent authority for the approval of prospectuses and the filing of related documents shall be “*reasonable and proportionate and shall be disclosed to the public at least on the website of the competent authority*”<sup>11</sup>;
- (iii) Continued focus on operating efficiently and effectively (explained in further detail below); and
- (iv) A simplified and efficient fee collections process.

The Central Bank is committed to the principle of operating efficiently and effectively in a manner that is wholly consistent with our obligation to

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<sup>8</sup> “Debt” refers to “non-equity securities” as defined in Article 2 of the Prospectus Regulation. There is no charge for summaries.

<sup>9</sup> Prospectus Advisors that held an authorisation from the Central Bank as a regulated financial service provider or that were domiciled outside the State were not subject to the annual charge. Since 2016, Prospectus Advisors have not been required to pay this annual charge following representations made to the Central Bank on their behalf.

<sup>10</sup> Central Bank Act 1942 (Section 32E) Prospectus Approval Fee Regulations 2011.

<sup>11</sup> Article 20(10) of the Prospectus Regulation.



deliver on our mandate. Conscious of the impact of our regulatory costs on entities who fund them, the Central Bank's Strategic Plan 2019 - 2021 included a commitment to greater stability in the overall operational budget and staffing. The Central Bank's budget approval process is subject to high standards of governance, costs are rigorously controlled and a culture of continuous improvement applies.

It is important to note that both issuers and their agents (in particular Prospectus Advisors) also play a key role in the Central Bank resources expended and ultimately the costs incurred in the prospectus scrutiny process. Poorly drafted or incomplete applications needlessly result in a lengthening of the scrutiny process.

The prospectus approval fee should also be considered in the context of the overall cost of a securities issuance. Based on information available, the Central Bank understands that the current prospectus approval fee generally represents less than 5% of the total cost of a securities issuance (which include fees charged by professional services firms such as Prospectus Advisors and law firms).

Against this background, the Central Bank now proposes to revise fees in respect of prospectus approvals under the Prospectus Regulation.

## Consultation Paper Proposal – New Fee Structure

The below are the key elements of the proposed changes to the fee structure:

- (i) All fees payable in respect of prospectus approval activities will be set out in a new set of regulations to be put in place in accordance with Section 32E of the Central Bank Act 1942 (New Prospectus Fees Regulations). This is aimed at simplifying the fee structure and aligning it with current wider Central Bank practice.
- (ii) Fees will be set in a manner that aims to substantially recover the cost of prospectus approval activities, which is consistent with the Central Bank's strategy to move towards full industry funding in order to reduce the burden on the taxpayer.
- (iii) Fees will no longer be payable under the PAA which will be terminated.
- (iv) Additional categories of approval fees will be reflected in the New Prospectus Fees Regulations for certain new document types introduced by the Prospectus Regulation.

- (v) The proposed fee structure will introduce a new fee for the filing of each individual final terms<sup>12</sup>.

The Prospectus Regulation introduced a number of new document types and our proposals with respect to each are set out in Appendix 1.

While the Central Bank acknowledges the market practice of a series/drawdown non-equity prospectus (series/drawdown prospectus) incorporating by reference a base prospectus, a series/drawdown prospectus is not a separate prospectus type that is reflected in the Prospectus Regulation. Accordingly, a series/drawdown prospectus will not be specifically referred to in the New Prospectus Fees Regulations as a separate prospectus type for which a separate fee will apply.

In the scrutiny of a series/drawdown prospectus, the information in the associated base prospectus incorporated by reference has to be scrutinised as it forms part of the prospectus. Time-sensitive and financial information must be updated and the information in the series/drawdown prospectus and base prospectus when read together must be complete, comprehensible and consistent.

The Central Bank considers that it is now appropriate to recalibrate its approval fee for a series /drawdown prospectus to fully reflect the aim of the New Prospectus Fees Regulations in providing for fees that are proportionate in respect of the performance of the Central Bank's functions under the Prospectus Regulation and associated domestic regulations. Therefore, it is appropriate that the fee for such documents would be that applicable to a non-equity prospectus in the New Prospectus Fees Regulations and that the proposed new fee of €6,500 would apply.

The main changes to the fee structure are as follows:

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<sup>12</sup> Final terms are a document filed with the Central Bank which contain information relating to the securities, which are specific to the individual issue and which can only be determined at the time of the individual issue. Multiple sets of final terms may be issued in relation to securities issued under a single approved base prospectus.

**Table 1 | Current and proposed approval and filing fees for certain document types**

Document Type	Security Type	Current Fee <sup>13</sup>	Proposed New Fee
<b>Approval Fees</b>			
Base Prospectus	Non-equity	€3,800 plus €250 document charge	€8,000
Prospectus	Non-equity	€1,000 <sup>14</sup> or €3,000 plus €250 document charge	€6,500
Securities Note for a Base Prospectus drawn up as separate documents <sup>15</sup>	Non-equity	€3,800 plus €250 document charge	€8,000
Supplement	Non-equity	€1,000 plus €250 document charge	€2,200
Prospectus	Equity	€30,000	€65,000
Prospectus	Equity issued by collective investment undertakings <sup>16</sup>	€1,000 or €1,200	€2,200
Universal Registration Document <sup>17</sup>	All types	€20,000	€43,000

<sup>13</sup> Unchanged since 2011 for equity securities (including equity securities issued by collective investment undertakings) and 2015 for non-equity securities.

<sup>14</sup> Fee for a series/drawdown prospectus.

<sup>15</sup> Within the meaning of Article 8(6) of the Prospectus Regulation and is commonly referred to in the industry as a “tripartite base prospectus”.

<sup>16</sup> Falling within the scope of the Prospectus Regulation. A fee of €1,000 and €1,200 is charged for the prospectus of an EU regulated and non-EU regulated issuer respectively.

<sup>17</sup> An optional shelf registration document that can be combined with a securities note for any security type. It is aimed at issuers that expect to frequently issue securities (Article 9 of the Prospectus Regulation).

Filing Fee			
Final Terms (for each individual Final Terms)	Non-equity	N/A	€150

### Filing of Final Terms – New Fee Proposed

The Prospectus Regulation requires issuers to file final terms where these have not been included in the base prospectus or in a supplement<sup>18</sup>. Costs arise in processing and reviewing these final terms. In order to recharge costs fairly, the Central Bank is proposing to introduce a new fee of €150 for the filing of each final terms, payable by the submitter (i.e. an issuer or an agent on their behalf).

Initially, the Central Bank proposes to issue fee notices to submitters of final terms quarterly in arrears for the final terms filed. Billing and collections mechanisms may evolve over time as systems are enhanced to comply with increased reporting obligations to the European Securities and Markets Authority (ESMA) under the Prospectus Regulation. In the absence of the proposed final terms filing fee, the proposed approval fees would need to be higher than those currently proposed in Appendix 1.

### Proposed Prospectus Approval and Filing Fees

A complete list of the proposed fees is set out in Appendix 1. The fees proposed take account of the cost of scrutinising and processing the documents submitted. In addition, the proposed fees have been calibrated to take account of operating costs and comparative fees in other jurisdictions.

## Question on Funding the Cost of the Central Bank’s Prospectus Approval Activities

We are seeking your views on the following:

1. Do you agree with the Central Bank’s proposals for funding the cost of its prospectus approval activities? If not, what alternative fee structure would you propose recognising that the Central Bank must implement its strategy of moving toward fully recovering the costs associated with its financial regulation activities?

<sup>18</sup> Article 8(5) of the Prospectus Regulation.

## 5. Proposals to Revise the Current Prospectus Approval Standards

### Current Prospectus Approval Service Standards

The aim of the Prospectus Regulation is to ensure investor protection and market efficiency, while enhancing the capital markets in the EU. As competent authority, the Central Bank has a key role in ensuring this aim is achieved. To enable investors to make an informed investment decision, the information disclosed in a prospectus should be sufficient and objective and should be written and presented in an easily analysable, concise and comprehensible form. In scrutinising a prospectus, the Central Bank ensures it contains the necessary disclosures including those relating to the issuer, the type of securities, the issuance and risk factors. To protect investors effectively, the Central Bank needs to take into account the different categories of investors and their level of expertise.

The timeframes within which the Central Bank is required to approve documents are currently set out in the Prospectus Regulation as follows:

- (i) Initial submissions (excluding supplements) assessed within 20 working days where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not previously offered securities to the public.
- (ii) Initial submissions (excluding supplements) not falling into (i) above, assessed within 10 working days.
- (iii) All subsequent submissions (excluding supplements) assessed within 10 working days<sup>19</sup>.
- (iv) Initial and subsequent submissions of supplements assessed within 5 working days.
- (v) Initial and subsequent submissions of universal registration documents for frequent issuers<sup>20</sup> assessed within 5 working days.

The timeframes above only apply from the date where the Central Bank is satisfied that the draft document meets the standards of completeness, comprehensibility and consistency.

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<sup>19</sup> Previously, for category (i) above, a timeframe of 20 working days applied for subsequent submissions in relation to the prospectus.

<sup>20</sup> An issuer that publishes a universal registration document each year will benefit from a fast track approval when seeking approval of a prospectus consisting of separate documents (Article 9 and Article 20(6) of the Prospectus Regulation).

In general, the statutory timeframes set out in the Prospectus Regulation are maximum timeframes that do not differentiate between the different security types (e.g. equity and non-equity) or documentation. The nature and complexity of documentation differs widely between equity and non-equity securities. Due to the substantial number of non-equity prospectuses that we scrutinise, often including standard or repeat documentation, we have built significant experience in the scrutiny and approval of non-equity prospectuses. Well-drafted applications from a Prospectus Advisor allows us to scrutinise them in shorter timeframes than those set out in the Prospectus Regulation, provided of course the scrutiny process itself does not identify issues requiring further investigation.

Schedule 2 of the PAA sets out the service standards for the scrutiny of documents committed to by the Central Bank under the PAA. In these service standards, we commit to providing shorter prospectus approval service standards than those set out in the Prospectus Regulation for certain prospectuses (mainly non-equity) submitted to the Central Bank through Prospectus Advisors. The Central Bank has committed to achieving the prospectus approval service standards set out in Schedule 2 of the PAA for 90% of all submissions<sup>21</sup> received. Table 5 of Service Standards Report<sup>22</sup> sets out our published service standards for prospectus approval for both Prospectus Advisors and others (those issuers not submitting through a Prospectus Advisor).

Under the Prospectus Regulation, EU competent authorities are tasked with balancing a dual mandate of ensuring investor protection and the efficient functioning of the capital markets. The latter does not only include ensuring proper market disclosure but also facilitating issuers to address their financing needs<sup>23</sup>. As such, it is important that the Central Bank enables issuers to access EU capital markets in an efficient manner and the shorter prospectus approval service standards contribute to facilitate this.

In light of the COVID-19 pandemic, it has been necessary to review these shorter prospectus approval service standards. In discharging the above statutory mandate, we had to consider how best to prioritise our activities (further details set out in the next section). In order to ensure proper

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<sup>21</sup> With the exception of debt financial supplements (supplements which pertain solely to periodic financial reporting or regulatory filing) which are currently approved on the same day rather than within 1 business day as set out in the PAA.

<sup>22</sup> The Service Standards Report is published twice-yearly and contains performance against service standards targets for the previous six months (January – June and July – December). Previously published reports can be accessed at this [link](#).

<sup>23</sup> This objective is also supported and emphasised by the Capital Markets Union Action Plan available at this [link](#).

scrutiny of applications and our ability to continue to meet our statutory timeframes as well as our other priority COVID-19 related work, we decided not to prioritise meeting the shorter service standards set out in the PAA. Operational Updates titled “COVID-19 Operational Arrangements” (COVID-19 Operational Updates) setting out this position were issued to stakeholders on 20 May 2020, 11 September 2020 and 15 March 2021. In the interests of providing certainty to stakeholders, the two most recent COVID-19 Operational Updates advised that where the timeframes in the PAA in respect of non-equity securities were to be exceeded the following increased timeframes would generally be met:

- Initial submissions: If required to go beyond the 3 days set out in the PAA, the extension should not go beyond 3 days;
- Subsequent submissions: If required to go beyond the standard 2 days set out in the PAA, the extension should not go beyond 2 days; and
- Non-financial supplements: If required to go beyond the standard 1 day<sup>24</sup>, the extension should not go beyond 1 day.

These operational arrangements are to remain in place until 31 December 2021.

## Consultation Paper Proposal – Revision of the Current Prospectus Approval Service Standards

The Central Bank has reviewed all service standards for prospectus approval in light of our experience in operating these standards in recent years. As we intend to terminate the PAA (further details set out in Section 6 below), the concept of a “Recognised Prospectus Advisor” would no longer exist and the proposed service standards would now be available to any party submitting a prospectus to the Central Bank for scrutiny and approval. We have used the service standards previously available to Prospectus Advisors as the basis for our review. Our proposal is to extend these service standards and to add increased flexibility into these timeframes for the following reasons:

- (i) The Central Bank, as an effective gatekeeper implementing our ROBUST principles, provides an important safeguard by ensuring that the securities markets and market participants are operating in a transparent and accountable manner. The Central Bank is placing

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<sup>24</sup> This timeframe is current market practice but is not included in the PAA. A new service standard is proposed for non-financial supplements (further details are set out below).

increased focus on challenging and investigating regulatory, investor protection or market integrity concerns. As a result, additional time is required for the scrutiny of documents (within the scope of timeframes set out in the Prospectus Regulation) in light of increased incidences of substantive regulatory, investor protection or market integrity concerns arising on applications that require to be investigated by the Central Bank and addressed by applicants.

- (ii) Increased complexity in the legislative framework as a result of the entry into force of the Prospectus Regulation and relevant ESMA measures issued thereunder. In particular, more prescriptive rules on scrutiny and approval, ESMA Guidelines on risk factors and increased disclosure requirements under the Prospectus Regulation require a more in-depth scrutiny of disclosures, including risk factors, in a prospectus is being conducted which has increased the time taken to scrutinise a prospectus. In addition, increased supervisory convergence at a European level necessitates additional time engaging with other EU competent authorities and ESMA on transactions. These regulatory reforms are part of the rationale for revising the current service standards in order to ensure that we continue to provide the degree of scrutiny necessary to protect investors while also facilitating high quality applications to be approved in timeframes significantly shorter than those envisaged in the Prospectus Regulation.
- (iii) The Central Bank’s Strategic Plan 2019-2021 explains that we must effectively prioritise across competing demands, while safeguarding delivery of our fundamental work, and responding to changes in the external environment. This necessitates taking risk-based decisions. As part of moving towards 100% industry funding, we have rationalised the resources we allocate to our prospectus scrutiny and approval work with a view to finding the right balance between:
  - what is reasonable and appropriate to charge;
  - the resources required to complete the work;
  - the need for proper scrutiny; and
  - the opportunity cost of putting valuable and scarce resources into scrutinising prospectus applications more expeditiously than the statutory timeframes set out in the Prospectus Regulation.

In considering the revision of our service standards, we have focused on the area of highest volume, namely debt<sup>25</sup> prospectus submissions. For the reasons set out above, we propose to continue scrutinising debt

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<sup>25</sup> The term “debt” is used in Table 5 of the Service Standards Report.



prospectuses in timeframes shorter than those set out in the Prospectus Regulation.

In this consultation, we are seeking the views of respondents on the proposed revisions of our current service standards having regard to both the factors outlined above and the views and experience of respondents. To facilitate this engagement, we have set out below a concrete proposal to amend the current service standards. When considering how to calibrate this proposal, we have had regard to the extended timeframes set out in the COVID-19 Operational Updates referenced above and used these timeframes to provide a clear proposal on which to comment. By doing so, we hope to enable respondents to include concrete empirical information in their submissions so that we have all relevant information to enable us to understand the impact this proposal may have on the ability of issuers to address their financing needs when accessing EU capital markets.

Taking the above into account, the principal proposed changes to the current service standards are therefore as follows:

- (i) The service standards would be applicable to all parties submitting a document to the Central Bank for scrutiny and approval (i.e. the concept of “Recognised Prospectus Advisor” would no longer exist).
- (ii) Wording would be added to Appendix A of the Service Standards Report setting out the circumstances in which the proposed service standards with a target of 90% would not apply. This would include where the Central Bank considers that the application gives rise to significant regulatory concerns whether in relation to the protection of investors, the integrity of the securities markets or otherwise. These circumstances are similar to those already set out in the Service Standards Report relating to authorisations across other sectors. In these circumstances, such submissions would be assessed within the timeframes set out in the Prospectus Regulation.
- (iii) In relation to debt prospectuses submitted to the Central Bank for scrutiny, the following timeframes would apply:
  - 90% of initial submissions would be assessed within 6 working days<sup>26</sup> rather than the 3 business days (Prospectus Advisors) or 10 business days (other parties) currently provided for; and
  - 90% of subsequent submissions would be assessed within 4 working days rather than the 2 business days (Prospectus Advisors) or 10 business days (other parties) currently provided for.

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<sup>26</sup> The term “working day” is used to align it with the terminology used in the Prospectus Regulation.

- (iv) In relation to debt non-financial supplements, a new public service standard would be included in Table 5. There is an existing practice of scrutinising such supplements within 1 business day<sup>27</sup>. We propose a service standard of 2 working days<sup>28</sup>. The target for all debt supplements is 90%.
- (v) In relation to all other documents, where we receive much lower volumes, relevant changes are outlined in Appendix 2.

Appendix 2 contains the current and proposed service standards for prospectus approval. In this proposal, any reference to 90% is generally to a timeframe that is shorter than that set out in the Prospectus Regulation. The remaining 10% of submissions would be assessed within the timeframes set out in the Prospectus Regulation. All references to 100% are to assessments within the timeframes set out in the Prospectus Regulation. In setting these proposed service standards, the Central Bank has had regard to the practices of other EU competent authorities. The proposed service standards continue to be similar to those in other EU jurisdictions with significant prospectus approval activity, while also having regard to the factors we outline above meriting the increase in timeframes consulted on in this Consultation Paper.

## Question on Prospectus Approval Service Standards

We are seeking your views on the following:

2. Do you agree with the Central Bank's proposals regarding the revision of the current prospectus approval service standards? If not, what alternative measures would you propose, including having regard to the Central Bank's reasons for revising the current service standards?

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<sup>27</sup> This practice is not reflected in the PAA.

<sup>28</sup> The current service standard relating to debt financial supplements remains unchanged with approval on the same day.

## 6. Intention to Terminate the Prospectus Advisor Agreement

### Overview of the Prospectus Advisor Agreement

In 2011, the Central Bank introduced a contract known as the [PAA](#). Pursuant to the PAA, the Central Bank undertook to recognise certain legal or natural persons as a “Prospectus Advisor”. Typically, a Prospectus Advisor provides services, as an agent, for issuers who are seeking approval of their prospectus by the Central Bank pursuant to the Prospectus Regulation.

The PAA details the obligations of both the Prospectus Advisor and Central Bank. The Prospectus Advisor’s main obligation is to submit a near complete, well-drafted prospectus. In turn, the Central Bank undertakes to deal with applications submitted through Prospectus Advisors more expeditiously than the statutory timeframes set out in the Prospectus Regulation. Schedule 2 of the PAA sets out the service standards for the scrutiny of documents committed to by the Central Bank under the PAA. Charges payable by Prospectus Advisors are also set out in the PAA.

At the date of this Consultation Paper, we have 32<sup>29</sup> recognised Prospectus Advisors. Approximately 8 of these regularly submit prospectus applications to the Central Bank. Prospectus Advisors, on behalf of issuers, submit the vast majority of documents to the Central Bank for scrutiny and approval. A list of Prospectus Advisors who have consented to their name and contact person being published is available on the Central Bank’s website [here](#).

### Intention to Terminate the PAA

The PAA has remained largely unchanged since 2011. The Central Bank now considers it timely to terminate the PAA for the following reasons:

- (i) In light of the obligation on issuers and expectation of agents to exercise due care and attention in the preparation of a prospectus set out in rules and guidance (explained in further detail below);
- (ii) The contractual arrangements set out in the PAA are not replicated in the Central Bank’s other gatekeeper functions;

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<sup>29</sup> Since recognition, a small number of Prospectus Advisors have undergone some form of corporate change (e.g. takeover).

- (iii) As set out in Section 4 above, the document charges set out in Schedule 4 of the PAA form only a small component of the income generated from prospectus approvals and as such we do not intend to use the PAA as a mechanism to collect regulatory fees in the future;
- (iv) The PAA does not apply to all parties that submit a prospectus for scrutiny and approval to the Central Bank; and
- (v) In light of the proposed amendments to the current prospectus approval service standards set out in Section 5 above.

Section 3.6 of the [Guidance on Prospectus Regulatory Framework](#) sets out guidance relating to the appointment of agents by issuers. In addition, it also sets out the Central Bank's expectations of agents<sup>30</sup>, which include exercising due care and attention in the preparation of a prospectus and when participating in the prospectus review process. This largely replicates the Prospectus Advisor's main obligation set out in the PAA.

Having regard to points (i) – (v) above, the Central Bank has decided to terminate the PAA in the event that it proceeds with the proposals outlined in this Consultation Paper. The current PAA arrangements will remain in place until such time as the alternative arrangements proposed in Sections 4 and 5 of this Consultation Paper have been consulted upon and the final proposals with respect to funding and prospectus approval service standards, which will be reflected in a future Feedback Statement, have become effective. Thereafter, the Central Bank will terminate all existing PAAs<sup>31</sup>.

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<sup>30</sup> Section 3.6 states that it is expected that the agent will also satisfy the provisions of Rule 35 of the Central Bank (Investment Market Conduct) Rules 2019 available at this [link](#).

<sup>31</sup> Clause 6.1 of the PAA provides that either the Central Bank or the Prospectus Advisor, giving 30 calendar days' written notice to the other party, can terminate the PAA.

## 7. Consultation Responses

The consultation will remain open for 12 weeks from 23 April 2021 until 16 July 2021. Any comments received after this date will not be considered.

The Central Bank welcomes comments and views from all interested parties. In addition, the Central Bank requests that respondents consider the specific question in Sections 4 and 5 of this Consultation Paper.

When submitting a response via email, the Central Bank would ask that respondents include the following subject heading in their email “Consultation Paper 142” and address the response to [markets@centralbank.ie](mailto:markets@centralbank.ie).

If making a submission by way of written correspondence, the Central Bank would ask respondents to send the correspondence to the following address:

Consultation Paper 142  
Primary Markets and Wholesale Conduct Supervision Division  
Central Bank of Ireland  
New Wapping Street  
North Wall Quay  
Dublin 1  
D01 F7X3

Please include contact details with any written submission.

When addressing any issue raised in this Consultation Paper, please use the headings and the numbering in this Consultation Paper to identify the section you are referring to. If you are raising an issue that is not referred to in this Consultation Paper, please indicate this in your submission.

It is the policy of the Central Bank to publish all responses to its public consultations. As all responses will be made available on the Central Bank website, commercially confidential information should not be included in consultation responses. If you do include such material, please highlight it clearly, so that reasonable steps may be taken to avoid publishing that material. This may involve publishing submissions with the sensitive material deleted and indicating the deletions.

While, as indicated above, the Central Bank will take reasonable steps to avoid publishing confidential or commercially sensitive material, the Central Bank makes no guarantee that it will not publish any such information and accepts no liability whatsoever for the content of stakeholders' consultation responses that are subsequently published by the Central Bank. Therefore, please be aware that you are making a submission on the basis that you consent to us publishing it in full.

# Appendix 1 - Proposed Prospectus Approval and Filing Fees

The below table sets out the proposed (current fees in brackets) prospectus approval and filing fees.

**Table 2 | Proposed Prospectus Approval and Filing Fees**

Document Type	Equity Securities	Non-Equity Securities <sup>32</sup>	Equity securities issued by collective investment undertakings falling within the scope of the Prospectus Regulation <sup>33</sup>
<b>Approval Fees</b>			
Base Prospectus Approval Fee	N/A	€8,000 (€3,800*)	N/A
Prospectus <sup>34</sup> Approval Fee	€65,000 (€30,000)	€6,500 (€1,000* <sup>35</sup> or €3,000*)	€2,200 (€1,000 or €1,200)
Registration Document Approval Fee	€43,000 (€20,000)	€4,300 (€2,000*)	€2,200 (€1,000 or €1,200)
Universal Registration Document Fee	€43,000 (€20,000)		
Securities Note Approval Fee	€22,000 (€10,000)	€2,200 (€1,000*)	€1,000 (€500 or €600)
Securities Note for a Base Prospectus drawn	N/A	€8,000 (€3,800*)	N/A

<sup>32</sup> The 2015 Fees Regulations previously had three categories of fees (Non-offering programme, Offering programme – Initial and Offering programme – Update) which were identical across the applicable categories. The proposal is to reduce this to one.

<sup>33</sup> The 2015 Fees Regulations previously had two categories of fees (EU regulated and non-EU regulated) with the lower fee applicable to EU regulated issuers. The proposal is to reduce this to one.

<sup>34</sup> Excluding a base prospectus.

<sup>35</sup> Fee charged for a series/drawdown prospectus.

up as separate documents <sup>36</sup> Approval Fee			
Supplement Approval Fee	€11,000 <sup>37</sup> (€5,000)	€2,200 (€1,000*)	€1,000 (€500 or €600)
<b>Filing Fees</b>			
Final Terms (for each individual Final Terms) Filing Fee	N/A	€150 (N/A)	N/A

\*The document charge of €250, as set out in Schedule 4 of the PAA, is also payable in respect of these documents.

The proposed fees are set out in the [New Prospectus Fees Regulations](#).

The Prospectus Regulation introduced a number of new document types and we propose the following in relation to each of them:

- **Prospectus for secondary issuances<sup>38</sup>**: Charging the same fee as a prospectus associated with the relevant security type;
- **EU Growth prospectus<sup>39</sup>**: Charging the same fee as a prospectus associated with the relevant security type;
- **Securities Note for a Base Prospectus drawn up as separate documents**: Charging the same fee as a base prospectus given the similarity to a base prospectus; and
- **Universal Registration Document** – Charging one fee regardless of the security type given this document is prepared in line with the disclosure requirements used for equity securities.

The European Commission is currently contemplating the introduction of an EU Recovery prospectus through amendments to the Prospectus Regulation. If the EU Recovery prospectus is introduced we are minded to charge a lower fee than that to be charged for a prospectus relating to equity securities.

<sup>36</sup> Within the meaning of Article 8(6) of the Prospectus Regulation.

<sup>37</sup> Including Supplements for Universal Registration Documents.

<sup>38</sup> Article 14 of the Prospectus Regulation.

<sup>39</sup> Article 15 of the Prospectus Regulation.



## Appendix 2 - Current and Proposed Service Standards for Prospectus Approval

Table 5 of the Service Standards Report<sup>40</sup> sets out the current service standards for prospectus approval. The below table sets out the current and proposed services standards.

**Table 3 | Service Standards for Prospectus Approval (Regulated Disclosures)**

ID	Standard	Target
T15	Debt Prospectuses	<p><b>Current</b></p> <ul style="list-style-type: none"> <li>• 90% of initial submissions assessed within 10 business days</li> <li>• 90% of subsequent submissions assessed within 10 business days</li> <li>• 90% of financial supplements approved on same day</li> <li>• 90% of initial submissions for Recognised Prospectus Advisor (RPA) assessed within 3 business days</li> <li>• 90% of subsequent submissions for RPA assessed within 2 business days</li> </ul> <p><b>Proposed</b></p> <ul style="list-style-type: none"> <li>• 90% of initial submissions of prospectuses assessed within 6 working days</li> <li>• 90% of subsequent submissions of prospectuses assessed within 4 working days</li> <li>• 90% of financial supplements approved on same day</li> </ul>

<sup>40</sup> Previously published reports can be accessed at this [link](#).

		<ul style="list-style-type: none"> <li>• 90% of initial submissions of non-financial supplements assessed within 2 working days</li> <li>• 90% of subsequent submissions of non-financial supplements assessed within 2 working days</li> <li>• 100% of initial submissions of universal registration documents for frequent issuers<sup>41</sup> assessed within 5 working days</li> <li>• 100% of subsequent submissions of universal registration documents for frequent issuers assessed within 5 working days</li> </ul>
T16	Closed – ended Funds Prospectuses	<p><b>Current</b></p> <ul style="list-style-type: none"> <li>• 90% of initial submissions assessed within 10 business days</li> <li>• 90% of subsequent submissions assessed within 10 business days</li> <li>• 90% of initial submissions for RPA assessed within 5 business days</li> <li>• 90% of subsequent submissions for RPA assessed within 2 business days</li> </ul> <p><b>Proposed</b></p> <ul style="list-style-type: none"> <li>• 100% of initial submissions of prospectuses assessed within 10/20<sup>42</sup> working days</li> <li>• 90% of subsequent submissions of prospectuses assessed within 5 working days</li> <li>• 100% of initial submissions of supplements assessed within 5 working days</li> </ul>

<sup>41</sup> Article 20(6) of the Prospectus Regulation.

<sup>42</sup> 20 working days where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not previously offered securities to the public. 10 working days in all other circumstances.

		<ul style="list-style-type: none"> <li>• 100% of subsequent submissions of supplements assessed within 5 working days</li> <li>• 100% of initial submissions of universal registration documents for frequent issuers<sup>43</sup> assessed within 5 working days</li> <li>• 100% of subsequent submissions of universal registration documents for frequent issuers assessed within 5 working days</li> </ul>
T17	Equity Prospectuses	<p><b>Current</b></p> <ul style="list-style-type: none"> <li>• 90% of initial submissions assessed within 10 business days/20 business days for Initial Public Offerings (IPOs)</li> <li>• 90% of subsequent submissions assessed within 10 business days/20 business days for IPOs</li> <li>• 90% of initial submissions for RPA assessed within 10 business days/20 business days for IPOs</li> <li>• 90% of subsequent submissions for RPA assessed within 10 business days/20 business days for IPOs</li> </ul> <p><b>Proposed</b></p> <ul style="list-style-type: none"> <li>• 100% of initial submissions of prospectuses assessed within 10/20<sup>44</sup> working days</li> <li>• 100% of subsequent submissions of prospectuses assessed within 10 working days</li> <li>• 100% of initial submissions of supplements assessed within 5 working days</li> </ul>

<sup>43</sup> See footnote 41.

<sup>44</sup> See footnote 42.

		<ul style="list-style-type: none"> <li>• 100% of subsequent submissions of supplements assessed within 5 working days</li> <li>• 100% of initial submissions of universal registration documents for frequent issuers<sup>45</sup> assessed within 5 working days</li> <li>• 100% of subsequent submissions of universal registration documents for frequent issuers assessed within 5 working days</li> </ul>
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The below wording will be added to Appendix A – Service Standards Exceptions of the Service Standards Report after the wording relating to Authorisations:

The Service Standards for submissions with a target of 90%, set out for Prospectus Approvals do not apply in cases where:

- a) the Central Bank considers that the application gives rise to significant regulatory concerns whether in relation to the protection of investors, the integrity of the securities markets or otherwise;
- b) responses are awaited from third parties. This is particularly the case where other regulatory authorities may need to be contacted on an application;
- c) significant legal issues arise;
- d) the business model of an applicant and/or the type of transaction is complex or novel in nature;
- e) significant changes to the business model, the transaction or other key aspects of an application arise during the scrutiny process, or where the application becomes dormant;
- f) the Central Bank is not the competent authority; and/or
- g) the Central Bank is minded to refuse an application.

In such cases, these submissions will be assessed within the timeframes set out in the Prospectus Regulation.

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<sup>45</sup> See footnote 41.

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