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

Submitted via email to markets@centralbank.ie

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Dear Sir, Madam

Thank you for giving us the opportunity to respond on this consultation. We have set out our responses to the two questions below:

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?

In terms of suggesting an alternative fee structure we observe that the only method that is in place is to charge on a per document basis. We would note that there are alternatives to the option of seeking an approval by the Central Bank of Ireland. There is the option, in most cases, of seeking an approval by another competent authority in the EEA or alternatively seeking a listing on a multi-lateral trading facility in the EEA or listing outside the EEA.

We have observed a growing trend to list on multi-lateral trading facilities. This has been very much increased since the introduction of the Prospectus Regulation.

Increasing fees for review of documents may lead to a lowering of total revenue should there be a shift to seeking approvals elsewhere.

We, in particular, note the suggestion that the concept of series/drawdown prospectus will be discontinued. These sort of transactions are a large proportion of those that we assist on. These tend to be very similar to each other and the expectation and experience is that these run smoothly. Such transactions are run on a very tight budget. Increasing the fees from €1,000 to €6,500 is likely to lead to these ceasing to avail of a listing on the regulated market of Euronext Dublin.

Maples and Calder (Ireland) LLP
75 St. Stephen's Green Dublin 2 D02 PR50 Ireland
Tel +353 1 619 2000 Fax +353 1 619 2001 Dx13 Dublin **maples.com**

If it is the case that there is a requirement to move to full industry funding then we can see that there is an inherent challenge in achieving this in what is a very mobile industry with viable alternatives in place. There is a significant danger that there could be a downward spiral of submissions meaning that to achieve the funding balance, that resources at the Central Bank will need to be rationalised and redeployed to such an extent that important corporate knowledge and expertise will be lost.

Consideration should be given to a staged process of increasing fees. In particular, when taken in tandem with the change in service standards proposed, an immediate doubling of fees could lead to a reassessment by Issuers of the market on which the listings are to take place.

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?

It has been the experience in the past that after a period of flux following a change in the prospectus rules that a balance is achieved, leading to better initial applications and fewer items to be challenged by the competent authority. We would be optimistic that the most difficult and time-consuming impacts of the imposition of the Prospectus Regulation and the challenges of COVID 19, have now been dealt with and we should be reaching a point where transactions are dealt with more efficiently.

Turnaround times are of crucial importance. The proposal to move to a 6 day / 4 day review period across the board is very off-putting to potential clients and to the law firms that service them and the arrangers that assist in making key decisions like which listing venue to select.

The leading position of Euronext Dublin has been achieved not only by their hard work but has been assisted hugely over the years by the certainty around turnaround times provided by the Central Bank. The 3 day / 2 day review has become embedded in various key listing jurisdictions. We have found the last 18 months, where the normal turnaround times have been suspended, to be challenging.

Most often we haven't had an extension beyond the 3 day / 2 day turnaround times and when it has occurred it has typically been where there is a retail transaction or a particularly complex transaction.

Where we have had the extensions on straightforward or repeat transactions we have seen that this resulted in particular anxiety and frustration for clients. Many transactions have a quite short window to complete and a hard deadline to meet.

We note that under the section in the consultation entitled - Current Prospectus Approval Service Standards – its states:

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.

We would completely agree with this statement and it is what differentiates the Central Bank as a competent authority from many other competent authorities. There are only a very small number of competent authorities who also approve a lot of debt prospectuses. We note the timeframes provided under the Prospectus Regulation and note that the market has moved to those listing venues where the turnaround times are shorter than this. Moving from long established shorter turnaround times and closer to the prescribed timeframes under the Prospectus Regulation could be seen as a signal that the Central Bank is looking to reduce the number of transactions they deal with and thus taking a step back from the key role they have had in building a high profile industry segment in Ireland.

We would urge that the Central Bank consider the downsides of this proposal, noting the ease with which Issuers could select alternative jurisdictions. It should also be noted that the profile of the Issuers seeking a regulated market listing in Ireland has never been higher. Despite a difficult last 18 months we think that in a positive regulatory climate that the numbers of Issuers looking to Ireland could be maintained or may increase.

We appreciate the points made around deploying limited resources and would suggest the following as potential turnaround times instead of the blanket proposal.

- for repeat standalone transactions that are for wholesale investors that a 3 day / 2 day turnaround time would apply.
- for new standalone transactions that are for wholesale investors that a 4 day / 2 day turnaround time would apply.
- for complex transactions, such as those requiring bespoke omission request letters, that a 5 day / 3 day / 2 day turnaround time would apply.
- for programme updates for wholesale issuers that a 3 day / 2 day turnaround time would apply.
- for programme updates for retail issuers that a 4 day / 2 day turnaround time would apply.
- for new programmes for wholesale issuers that a 4 day / 2 day turnaround time would apply.
- for new programmes for retail issuers that a 5 day / 3 day / 2 day turnaround time would apply.
- for simple supplements that a 1 day turnaround time would apply.
- for long or detailed supplements that a 2 day / 1 day turnaround time would apply.

While the preferred outcome would be no change we feel that at least with a tailored approach we have something to reassure potential issuers who would be unhappy with the current proposal.

We are sure that the responses received will be considered in detail and I would also note that we are in agreement with the submission to be sent by the Irish Debt Securities Association.

We are happy to engage in any discussions at any stage and to reach out to clients should you wish to seek their views.

Yours faithfully

Ciaran Cotter

Head of Listing

Maples and Calder (Ireland) LLP