

**Delivery via Email**

Central Bank of Ireland  
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**Consultation Paper 158 - Consultation Paper on the Consumer Protection Code – Standards for Business**

To Whom It May Concern,

The Irish Funds Industry Association (Irish Funds) is the representative body for the international investment funds industry in Ireland. Our members include fund managers, fund administrators, transfer agents, depositaries, professional advisory firms, and other specialist firms involved in the international fund services industry in Ireland. By enabling global investment managers to deploy capital around the world for the benefit of internationally based investors, we support saving and investing across economies. Ireland is a leading location in Europe and globally for the domiciling and administration of investment funds. The funds industry employs over 17,000 professionals across every county in Ireland, with over 34,000<sup>1</sup> of a total employment impact right across the country and provide services to over 8,800 Irish regulated investment funds with assets of EUR 4.3trn trillion<sup>2</sup>.

Irish Funds welcome the opportunity to provide our comments and seek clarification on the recently issued proposal within the Consultation Paper on the Consumer Protection Code (the Consultation) to the new Central Bank Regulations for Standards for Business and supporting Standards for Business which will replace and enhance the existing General Principles of the Code.

We have several queries and observations that we believe require further guidance to ensure comprehensive compliance and effective implementation.

**Application of Standards to Regulated Financial Service Providers (RFSPs) Serving Institutional Clients:**

The Standards are designed to apply universally to all RFSPs. However, we would request confirmation of the position of RFSPs contracted to provide services exclusively to institutional clients, particularly since these institutional clients do not fall within the definitions of 'consumer' and 'customer' as provided. Could the Central Bank of Ireland (Central Bank) clarify whether there is an intention to expand the Standards to provide specific guidance for these RFSPs?

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<sup>1</sup> Irish Funds Indecon survey 2021

<sup>2</sup> Central Bank of Ireland statistics – 31 March 2024

**Breach Reporting Requirement:**

Unlike the Conduct Standards, the Business Standards do not explicitly include a breach reporting requirement. Is there an expectation that RFSPs should disclose breaches of these Business Standards alongside their current reporting obligations under other regulations? If so in what format and how would firms quantify what constitutes a breach?

**Reasonable Steps for Compliance:**

It appears that there is no reference within the Standards for Business to RFSPs taking 'reasonable steps' to comply. Could the Central Bank confirm that the standard of "reasonable steps" will also apply in the case of the Standards for Business in the same way it does for Common and Additional Conduct Standards and provide guidance as to how RFSPs can adhere to same?

**Guidance and FAQs:**

Is there an intention to issue further guidance or FAQs to assist RFSPs in understanding and implementing the Standards for Business effectively?

**Interpretation of Supporting Standards:**

The detailed Supporting Standards underpinning the main Standards sometimes reiterate or expand on existing regulatory obligations. However, the broad wording in some supporting standards may lead to varied interpretations. Therefore, we are seeking clarification in respect of the following examples:

- **Outsourcing Arrangements:** Supporting Standard 14 requires RFSPs to ensure agents acting on their behalf comply with the Standards specifically "*A regulated financial service provider shall establish and implement systems and controls, processes, policies and procedures for the purpose of ensuring that it, and any agent acting on its behalf on the basis of an outsourcing arrangement, complies with these Regulations*". Does this requirement apply to all outsourced service providers (OSPs), or is it limited to intermediaries directly dealing with RFSP clients on an agency basis?
- **Management of Outsourced Activities:** Standard (f) mandates that RFSPs manage their affairs sustainably and prudently, with a supporting standard requiring effective management of outsourced activities; "*Controlling and managing its affairs and systems sustainably, responsibly and in a sound and prudent manner*"; has a supporting standard requiring firms to "*manage their outsourced activities effectively to identify, monitor and manage its outsourcing risk*". This could impose a new regulatory obligation on entities currently governed only by Central Bank's Guidance on Outsourcing. Can the Central Bank clarify whether this standard will be linked to the existing guidance for enforcement purposes?
- **Engagement and Cooperation with Authorities:** Standard (i) "*Engage and cooperate with the Bank and comparable competent authorities in good faith and without delay.*"

includes requirements for engagement and cooperation that extend beyond current disclosure requirements under Investment Firms Regulation (IFR), such as:

- Notification of decisions to cease providing certain financial services which is not currently a regulatory requirement.
- Disclosure of any information reasonably expected by the Central Bank regarding the RFSP's affairs which is open to interpretation requires clarity and more guidance.
- Ensuring attendance at meetings and interviews as required by financial services legislation. Which may place an unfair obligation on the RFSP in scenarios where the relationship with the PCF has broken down.
- Prohibiting the intentional provision of false, inaccurate, or misleading information, which may pose challenges when firms are required by supervisors to provide detailed information on issues before completing full reviews.

We believe that clear and detailed guidance on these points will greatly assist RFSPs in achieving compliance and aligning with the Central Bank's expectations. We look forward to the Central Bank's response and any additional guidance that may be provided.

Thank you for your attention to these matters.

We welcome the opportunity to engage with you further in relation to this submission.

Yours sincerely,

Ruth Fairclough  
**Senior Manager – Industry Collaboration**