

Financial Services Consultative Industry Panel

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Mr. Patrick Brady
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I am writing in response to your request to the Panel for comment on CP41-Corporate Governance. Apologies for not having our submission to you by the closing date of 30 June – I was absent from the office last week.

In writing the Panel is conscious of two matters – firstly, you will receive detailed responses from representative bodies covering every aspect of financial services that you regulate and secondly, as the Panel is due to be disbanded shortly, it is inappropriate to make detailed comments that would possibly require continuing interaction beyond the Panel's likely existence.

The Panel is very supportive of the broad thrust of your Strategic Plan and of the approach of your June 21 document. Clearly industry bodies will have detailed issues that will require teasing out but you can be assured that the Panel absolutely shares your determination to rebuild both domestic and international public confidence in the Irish regulatory regime and, by extension, the Irish financial services industry.

We have welcomed your repeated assurances that the Regulator is not proposing a ‘‘one size fits all’’ approach to regulation and we quite understand the thinking behind your proposed standards for larger domestic, group based, organisations and indeed for any that pose systemic risk whether domestic or international. We also acknowledge your statement that you will interpret the requirements in a ‘‘proportionate’’ way

However, the Panel believes that it would be appropriate to be more explicit about the criteria that you propose to use to determine the application in full of the proposed standards including number of directors, independent/nonexecutive mix, number of directorships held etc .It would also be desirable to define in greater detail the ‘‘minimum’’ requirements for firms that by definition you will have deemed to be of lower risk.

That would give greater clarity both to existing IFSC licence holders and also to prospective investors considering Ireland as a location.

In addition the Panel believes that you need to give greater clarity to rules for 100% owned foreign firms subject to equivalent corporate governance regimes, including derogations to recognise their existence. A similar point is to be made regarding independent directors/chairmen since the Panel suspects that if these requirements were to be regarded as a loss of control by parent companies this could prove a barrier to possible new investment or indeed to continued location here

The recent Review of Economic Regulation by the Economist Intelligence Unit and Government Principles Of Better Regulation suggest that a Regulatory Impact Assessment is best practice .You may have concluded that the scale and urgency of your task was such as to rule out the use of such assessments as part of the consultation process .However we are of the view that, at least as far as subsidiary/lower risk firms are concerned, such an assessment should be undertaken ,perhaps in conjunction with greater clarity on the ‘ ‘minimum ‘ ‘requirements for those firms and indeed on how such firms are in fact defined .Benchmarking these against other international centres would also be of value .

Finally we assume that the Regulator, in proposing these new guidelines and, indeed, others as you move through your programme of reform, has the resources and robust mechanisms in place to monitor and contribute effectively to emerging international debate whether in Europe or elsewhere, anticipating issues of concern to the Irish financial services industry and, most importantly, ensuring consistency of Irish regulatory requirements with those of the EU and other relevant regimes.

Yours sincerely,

David Went
Chairman
Industry Panel