Deutsch-Irische Industrie- und Handelskammer
German-Irish Chamber of Industry and Commerce

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Financial Regulator, Matthew Elderfield RD
Financial Regulator
PO Box 9138
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Dublin, 19.05.2010

Re: Consultation Paper CP 41

Dear Mr. Elderfield,

We are contacting you regarding the Consultation Paper CP 41 issued by the Irish Financial Regulator, which proposes a new regulatory framework for corporate governance for credit institutions and insurance undertakings. We understand that this paper will apply to all licensed banks and insurance undertakings in Ireland.

The German-Irish Chamber of Industry and Commerce welcomes the initiative to clearly set out rules for the financial services sector in addition to existing legislation and best practice codes. However, given the diversity of financial institutions in the state with, for example, large, systemically important domestic banks as well as typical small IFSC wholesale banks owned by foreign parent companies, it is essential to apply such rules proportionately. It is also fair to say that, while these IFSC banks were subjected to the recent global financial crisis like everyone else, they are well outside the well known domestic challenges resulting from real estate lending and in some cases apparent corporate governance break downs. It should also be noted that none of the foreign owned IFSC banks needed state aid or cost the Irish State/taxpayer a single cent.

A number of our members have raised serious concerns with provisions of the proposed rules which they see as unfeasible and unviable and which, if insisted upon, will inevitable lead to an immediate review of their group's investment in Ireland. To name but two examples:

1. The proposal defines independence for non-executive directors. This would rule out the eligibility of nearly all current chairs of these IFSC companies.
2. The proposal demands a majority of independent directors as per its definitions. This would disqualify the majority of current board compositions in those IFSC companies.

Those two points alone are unacceptable to the German owned IFSC institutions. The majority of those banks and insurances have 10 to 30 employees, are wholly owned by their foreign parent, which would have issued a letter of comfort, have 2 to 10 Billion Euro balance sheets and generally 5 to 6 directors on their board. Given that the foreign parent would have supplied large amounts of capital into their Irish subsidiaries, it can be safely assumed that they will not hand over control of their Irish operation to independent outsiders. This means that there is normally a strong shareholder presence (including the chairman) on the boards. In addition it is quite common that the board will be completed by Irish resident directors who compliment the skill set of the board with local legal and financial knowledge and whose firms may provide some service to the institutions as well. Small institutions like this also have a natural limit to resource committees. For example,, risk and audit committee roles could and should well be covered by the board.

We would like to put on record our belief that the boards of the small IFSC financial services companies have worked well in the past and provided adequate corporate governance for our member institutions. They successfully combined elements of the continental corporate governance structures (strong shareholder presence) with elements of the Anglo-Saxon/Irish model (unitary board) in full compliance with all legal requirements. The provisions of the proposed rules would make a continuance on this basis impossible.

We, therefore, strongly advocate for changes be made to the paper clearly defining different levels of compliance needs according to proportionality or, alternatively give smaller IFSC institutions clear written assurances as to exemptions and derogation.

Without such changes to the proposal, Ireland will undoubtedly loose significant foreign investment from banks and insurances which have established subsidiaries here. It would damage the attractiveness of the location for foreign investors, result in a dramatic reduction in tax revenue and an increase in unemployment with little chance for the employees from this sector to find new employment in Ireland. It would also jeopardise our combined efforts to raise interest from foreign financial services investors in Ireland (Farmleigh etc.).

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The working group "Financial Services" of the German-Irish Chamber of Industry and Commerce would be delighted to assist and take part in consultations regarding changes to the Consultation Paper CP 41. It will bring the expertise of German financial institutions to the table, which have been operating in Ireland for several decades, in order to help create a feasible and viable new regulatory framework for corporate governance for credit institutions and insurance undertakings, which will allow these companies to stay in the IFSC - and they very much want to do so.

The current Consultation Paper CP 41 would not provide such a framework and - if passed in its current form - will have devastating consequences for the Irish economy and the financial sector in particular.

It is in our great interest to help create a new and better regulatory framework so that the financial sector in Ireland can play an important and responsible part in Ireland's economic development once again. We will contact you in the coming days to discuss this topic and a possible involvement of our Chamber's working group "Financial Services".

Kind regards,

Helmut Clissmann

President
German Irish Chamber
of Industry and Commerce

Ralf Lissek

Chief Executive Officer
German Irish Chamber
of Industry and Commerce

Representative of German Business
and Industry in Ireland

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