

**Submission to the
Central Bank & Financial Services Authority of Ireland**

**Code on Related Party Lending
Consultation: CP43
*July 2010***

INTRODUCTION

IBOA – The Finance Union represents employees working in the financial services industry, predominantly in banking. IBOA presently has over 22,000 members and uniquely represents staff at all levels, up to and including managerial grades, in the Republic of Ireland, Northern Ireland and Great Britain. IBOA is a member of the Irish Congress of Trade Unions (ICTU) and the umbrella body for European Finance Unions, UNI Europe.

IBOA recognises that related party lending can give rise to conflicts of interest and abuse resulting in reputational damage to the institution, the sector and the people it employs. IBOA welcomes a Code of Practice in this area.

IBOA welcomes the publication of the Code on Related Party Lending and looks forward to other important measures that will result in improved corporate governance in financial institutions.

IBOA's observations and comments following the numbering used in the draft code at appendix 1 of the Consultation Paper

1. Overview

Arm's length may need to be defined. It is important that the borrower is not party to the loan application, approval or issuing processes and that the decision making authority rests with an individual or board / committee that are not subordinate to the borrower.

2. Legal Basis and Application of this Code

IBOA has no observations to make under this heading

3. Commencement

IBOA's view is that the Code should come into force at the earliest possible date.

4. Scope of Loans Covered by this Code

IBOA supports the requirements and transitional arrangements.

5. Definitions

The definition of **Connected Persons and Clients** is far too narrow and should conform to an established standard such as that contained in Section 10 of the Taxes Consolidation Act, 1997

<http://www.irishstatutebook.ie/1997/en/act/pub/0039/sec0010.html>

The definition of **Connected Person** is important as it is fundamental to the definition of **Related Party**.

6. Requirements of the Code

IBOA supports the requirements under this section of the code.

- b) a loan to a related party, or any variation in the terms of a loan, or actions in respect of the management of a loan to a related party, shall be subject.....”

The underlined phrase is inserted to ensure that Board members with a conflict of interest are also excluded from these actions.

7. Reporting to the Financial Regulator

IBOA supports the requirements under this section of the code.

IBOA believes that related party lending within the scope of the code should be publicly reported and not just to the Financial Regulator. Consumers, employees and the general public are sometimes better placed than the Financial Regulator to identify connected persons and related party lending. **Public reporting is essential for proper accountability.** At the very least, columns A, B, C, and F in Appendix 2 should be disclosed either in the institutions accounts or on a public register. Already, the Accounting Standards Board imposes requirements under FRS8 to report certain related party transactions.

8. OTHER - Reciprocal Lending

IBOA understands that in the past there have been reciprocal lending arrangements between institutions for board members and senior managers in order to avoid disclosure requirements to shareholders. This is not a case of loans moving off balance sheet at financial year end. It is a case of executives in competing institutions organising loans for one another, where there is an obligation to reciprocate. These types of arrangements do not appear to be covered by the provisions in the code.

CONCLUSIONS

IBOA welcomes the publication of the Code on Related Party Lending. The definitions of connected persons and related party are fundamental to the reach and operation of the code. Public disclosure is essential for proper policing of the code. Otherwise there is no opportunity for 'whistleblowing'. Anti-avoidance measures are required, particularly in relation to reciprocal lending arrangements.