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**BY EMAIL**

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**Central Bank of Ireland – Consultation Paper CP 51 – The Fit and Proper Regime in Part 3 of the Central Bank Reform Act 2010**

Please find to follow a submission in respect of Consultation Paper CP 51 (the “Consultation Paper”).

I have considered the proposals as outlined in the Consultation Paper and have been minded to submit to the Central Bank the following observations on the proposals as would be anticipated to impact on the institution and the financial services industry, particularly the cross border industry.

**1. Controlled Functions Proportional Application**

It is noted the consultation paper intimates that the application of the “Controlled Function” requirements are intended to be applied to individual positions/employees of regulated financial services providers or individuals who are regulated financial services providers such that Section 2 Clause 3 of the consultation paper states, *“The Act has given us [Central Bank] the regulatory tools to; (d) Designate as controlled functions (CFs) those positions in regulated firms which we deem are sufficiently important on an ongoing basis such that where a need arises, we may investigate, suspend, remove permanently and/or prohibit an individual from carrying out a controlled function in a regulated financial services provider in the future.”*

With regard to *"...the carrying out of a controlled function in a regulated financial services provider..."*, the legislation is more prescriptive such that Central Bank Reform Act 2010, Part 3 Article 20 (4) & Section 4 Clause 8 (b) of the Consultation Paper stipulates, *"A CF remains a CF even if it is; carried on at an office or location outside the State; carried on at the office or location of another person, whether or not the other person is a regulated financial services provider, or related to a business to a business of a regulated financial service provider established in the State conducted by that provider outside the State"*.

With respect to services provided by a person *"...whether or not the other person is a regulated financial services provider"*, the interpretation is held that certain activities by a third party other than an [Irish] regulated financial services provider such as giving advice in the normal course of providing a financial service would cause that third party to be a controlled function of the [Irish] regulated financial services provider.

In respect of those third parties (natural persons, partnerships or body corporate including those employed by a body corporate) who provide services on a cross border basis that are defined as controlled functions, under the Central Bank Reform Act 2010, to a regulated financial services provider in Ireland, the Central Bank should consider issuing non-statutory guidance affirming that financial service providers authorised in another jurisdiction are exempt from the requirements of "Controlled Functions" given they will have met the appropriate standards in their own domestic territory, notwithstanding in the ordinary course of its business, the regulated financial services provider in Ireland shall have conducted its own due diligence on the third party service provider, such that otherwise those third parties will in effect be controlled by two jurisdictions, Ireland and their domestic location.

I thank you for the opportunity in making a submission to the proposals as currently outlined and look forward to the Central Bank's final guidance in the application of its powers in due course. If the Central Bank would like to discuss the matter raised in this submission I would be very pleased to expand further.



Paul O'Connor

Chief Executive Officer