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Consultation Paper CP67 - Consultation on Authorisation of Regulated Firms, Funds and Intermediaries: Process Improvements and Service Standards

Dear Sirs

We welcome the publication of Consultation Paper CP67 ("CP67") and the opportunity for all interested parties to put forward their comments and views.

We are privy to and fully support the submission which has been prepared by the Irish Funds Industry Association ("IFIA") in response to CP67 and agree with the comments raised therein. Therefore, for the purposes of Maples' submission in response to CP67, we have included only additional, pertinent points not included in the IFIA submission.

As requested, we have indicated the relevant heading and service standard numbering when addressing an issue raised in CP67. To the extent that we address any issue not referred to in CP67, we have also clearly indicated this.

Section 3 – process improvements strategy for high volume processes

1. It is the stated aim of the Regulatory Transaction Strategy (RTS) to *"deliver more effective and efficient regulatory processes; and to improve the quality of both regulatory information and service to all stakeholders"*. We note that a *"process re-engineering exercise"* has taken place which was *"underpinned by a number of agreed strategic organisational principles to deliver a significantly improved model"* with such principles detailed on page 11 of CP67.

We have a number of comments in this regard as follows:

- *Moving towards a paperless environment by accepting applications and supporting documentation only in an electronic format*
 - Will the Central Bank still require original counterpart material contracts including original signature pages for its records? If so, should these be submitted to the Central Bank via courier/post referencing the relevant application and at what stage in the authorisation application process?
- *Enabling the Applicant/Legal Firm to submit the application online through a new secure portal and user-friendly online application form with the documentation being stored electronically for future reference;*

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- We have provided details of some additional examples of practical issues which we have encountered with the Central Bank's Online Reporting System ("ONRS") in addition to those identified in the IFIA submission which we feel should be avoided to the extent that it is intended to replicate these for the proposed on-line secure portal.
 1. ONRS naming convention & uploading documents: We have experienced significant issues uploading documents via the ONRS to match the naming convention and feel that the instructions regarding the naming convention could be more user-friendly.

In addition, we have also had to convert pdf documents to an optimized pdf in order to successfully upload them via the ONRS. Clients have found this aspect particularly cumbersome and difficult to manage.

We agree with the IFIA's comment in relation to the dating of documents and would query why an arbitrary future date must be selected in line with the Central Banks' ONRS User Manual rather than the date the report is being submitted.

Finally, if a return is set up in error with the incorrect reporting dates, the user who set it up is unable to delete it and must submit a request to the ONRS for its deletion thereby requiring Central Bank input.
 2. Correspondence received from Central Bank: Emails received from the Central Bank in response to requests submitted do not include the relevant institution code and company/fund name. Therefore, if numerous requests are submitted in one go, it is difficult to ascertain which company/fund the Central Bank is referring to in its response email. This is particularly pertinent where the Central Bank's request requires further action.
- *Promoting dialogue (exchange of comments on applications) through a secure online portal*
 - We note that it is proposed to exchange comments on applications through the secure online portal. Is it intended that some form of notification will be issued to the relevant law firm/applicant or Central Bank advising them that the Central Bank or law firm/applicant has issued comments/responded to comments via the online portal (e.g. email notification)? Alternatively, it would be necessary to regularly check the online portal which would negate the intended time efficiencies associated with this method of dialogue.
- *Issuing of authorisation letters and relevant certificates of authorisation online*
 - Will the Central Bank continue to provide an option for the original authorisation letters/certificates of authorisation to be collected at the Central Bank's office in line with current practice noting that some clients require original authorisation letters/certificates for their records?
- *Providing industry with online functionality to track the progress*
 - When the Central Bank refers to "industry" in this context, we trust that this is referring to the relevant applicant/law firm and IT security protections will be put in place to ensure that applications will only be accessible by the relevant applicant/law firm (e.g. password protected user account).
- *Creating a central repository of authorisation and supervisory information for each FSP by bringing the new authorisation and online returns together*
 - Will those returns which are currently required to be submitted via the ONRS continue to be so submitted i.e. the ONRS and the new on-line portal will run as two separate

systems? Due to issues/confusion experienced to date regarding which documents are required to be submitted via the ONRS as opposed to in hard copy, we would recommend that a definitive list of those documents/returns requiring submission via the ONRS be prepared and made available.

- *Maintain a complete and electronic audit trail of submissions, communications, comments, edits, document versions etc.*
 - Will this trail be accessible by the relevant applicant/law firm for review purposes or is it intended just for Central Bank purposes?
- 2. We note that page 12 of CP67 states that "a full life cycle approach was adopted whereby all core regulatory processes relating to a FSP were reviewed". It then proceeds to list those areas comprising this full life cycle. The final paragraph on page 12 states that the Central Bank will deliver a solution for the funds sector by Q1 2014. This paragraph goes on to state that post-authorisation and voluntary application processes will also be reviewed as part of the RTS programme, with service standards published at a later date and refers to Table 3 on page 13. Table 3 entitled "RTS Authorisations Roadmap- Key Milestones", provides a target dated for Authorisations (Q1 2014), Passporting in (2015) and Passporting out (2015) only.

We have the following queries in this regard:

- In a funds' context, is the Q1 2014 date limited to just new fund authorisation applications? If so, what is the solution target date for the other items included in the "full life cycle" list on page 12 (e.g. extensions of authorisations, acquiring transactions, revocations etc.)? Will the current hard copy application process continue to apply to these non-authorisation applications until the relevant target date?
- Similarly, what is the solution target date for post-authorisation and voluntary revocation processes? Will the current hard copy application process continue to apply to these types of applications until the relevant target date?

General Non-CP67 Specific Query:

1. We note that the proposed solution target date for fund and fund service provider authorisations is Q1 2014. Is it intended that all aspects of a new fund authorisation application will be submitted via the proposed new secure on-line portal once we reach Q1 2014 e.g. in a UCITS context, will the current process whereby the primary draft fund documentation, SMIC, KIIDs and RMP applications are submitted separately to the relevant Central Bank department via hard copy or email as appropriate cease and all components of a UCITS fund authorisation application streamlined and submitted via the secure online portal?
2. Our understanding from our review of CP67 is that the ONRS will remain a distinct and separate process to the new online secure portal and all documents and returns which are currently required to be submitted via the ONRS (e.g. IQs, FDI reports etc.) will continue to be so submitted. Can the Central Bank please confirm our understanding is correct and as per our comment above, we would recommend that a definitive list of documents which are required to be submitted via the ONRS be prepared and made available to industry.

Section 5 - Fund and Fund Service Providers Authorisation

We note that paragraph 2 on page 16 advises that "incomplete applications" will be returned to applicants. We note and welcome the provision of further clarification in terms of what the Central Bank considers to be an "incomplete application".

Further, practices and procedures are currently in place to reflect the operational realities in the case of particular types of applications which result in the Central Bank accepting initial applications with certain information/documentation to follow under separate cover. For example, in the case of an application for a UCITS self-managed investment company ("**SMIC**"), the relevant Central Bank

application is typically submitted with the professional indemnity insurance information to follow on the basis that an applicant may not have agreed on and/or finalised appropriate insurance cover at the time of the submission of the SMIC application form and (2) with the signed letter from the fund confirming compliance with the relevant minimum capital requirements plus the original bank statement evidencing same to follow. Indeed, the Central Bank specifically requests that the original bank statement be dated as close to the proposed date of authorisation as possible. Currently, the Central Bank commences its review of the relevant SMIC application form notwithstanding that the above-mentioned information/documentation will follow as soon as same is to hand and in any event prior to authorisation. How is it proposed to accommodate these operational realities pursuant to the proposed new on-line portal process and avoid a scenario whereby a SMIC application is deemed "incomplete" upon initial submission?

Paragraph 2 on page 16 also stresses that a pre-submission in relation to any unique/complex proposal is very important. What format does the Central Bank envisage such pre-submissions i.e. via the proposed secure online portal or hard copy?

We note that the fourth paragraph on page 18 on CP67 that the RTS process re-engineering initiative have identified a total of 35 process steps out of 59 that will be eliminated in future funds authorisation processes. Can the Central Bank please provide information on these steps to the extent that they alter the current regime so as to ensure applicant/law firms do not undertake unnecessary steps during the authorisation process.

10. Application Fees

We note that the Central Bank has decided to follow through with this proposal to introduce application fees following the Central Bank's CP61 consultation on impact based levies and other related matters. We also note and welcome the Central Bank's statement that it will defer the introduction of the fees until 2014 so as to provide "*an opportunity for further review and consultation in relation to the appropriate quantum on application fees*" particularly in light of concerns raised in response to CP61 regarding the impact of the introduction fees on Ireland's competitiveness in attracting new regulated entities and the need to ensure that any such fees introduced are benchmarked against other EEA jurisdictions.

Can a further indication as to when in 2014 the application fees are likely to be introduced be provided at this point? Also, when and where will details of the proposed reduced annual regulatory levy be provided?

11. Authorisation Performance and Draft Service Standards

We note and welcome the introduction of a consultation process relating to the introduction of new service standards as set out in CP67 and the publication by the Central Bank of half yearly service standards performance reports across all sectors and a quarterly performance report per sector on an exceptional basis. We feel it would be useful if the Central Bank could provide information on the implications of non-compliance with the relevant service standards and proposed remedial action in the cases where such non-compliance becomes apparent.

We note the table on page 30 of CP67 which applies to funds service providers as defined in the footnote therein. We further note that A1.1, A1.2 and A1.3 timelines stipulated are based on applications "becoming complete". We further note that the Central Bank will publish guidance on what constitutes a complete application and we would refer you to our previous comment in respect of a UCITS SMIC application and "incomplete applications".

Finally, we note that the Central Bank has proposed two service standards for the authorisation of funds. In line with the IFIA submission, we would express a preference for Option 1 subject to the comments and concerns raised in the IFIA submission.

If the Central Bank has any queries in relation to the above or wishes to discuss any aspect further, please just let us know.

Yours faithfully

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